FEDERAL REGISTER

Vol. 86 Wednesday

No. 210 November 3, 2021

Pages 60531–60748

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 86 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Contents

Federal Register

Vol. 86, No. 210

Wednesday, November 3, 2021

Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

10295.....60531
10296.....60533
10297.....60535
10298.....60537
10299.....60539
10300.....60541
10301.....60543
10302.....60545
10303.....60547

Executive Orders:

14051.....60747

9 CFR

590.....60549

12 CFR

Proposed Rules:

1240.....60589

14 CFR

39 (5 documents) 60550, 60554, 60557, 60562, 60563
1215.....60565

Proposed Rules:

39.....60600

40 CFR

Proposed Rules:

52.....60602

50 CFR

622.....60566
679.....60568

Federal Register
Vol. 86, No. 210
Wednesday, November 3, 2021

Presidential Documents

Title 3—

The President

Proclamation 10295 of October 29, 2021

Critical Infrastructure Security and Resilience Month, 2021

By the President of the United States of America

A Proclamation

For generations, American infrastructure—from the Erie Canal and the Transcontinental Railroad to the Hoover Dam—has been a cornerstone of our economic power, providing jobs, facilitating transportation, bolstering security, and overcoming barriers posed by distance and geography. During Critical Infrastructure Security and Resilience Month, we renew our commitment to securing and enhancing the resilience of our Nation's critical infrastructure.

Threats to the critical infrastructure that we all depend on, which underpins our economic and national security, are among the most significant and growing concerns for our Nation, including cyber threats, physical threats, and climate threats. Our country has seen how the technologies we rely on can be targeted by criminal activity and how extreme weather exposes the weaknesses in our power, water, communication, and transportation networks. We must do everything we can to safeguard and strengthen the systems that protect us; provide energy to power our homes, schools, hospitals, businesses, and vehicles; maintain our ability to connect; and ensure that we have reliable access to safe drinking water. While our Nation has been resilient as we have navigated this pandemic, we must continue investing in our workforce to keep pace with the threats we face and ensure we are building back better.

I am committed to protecting our critical infrastructure and improving security and resilience efforts across the Nation. Most of our Nation's critical infrastructure—from communication lines to transportation networks—depends on coordination and cooperation among Federal, State, Tribal, and local governments, along with industry partners. That is why, earlier this year, my Administration launched an Industrial Control Systems Cybersecurity Initiative to strengthen the security of our country's critical infrastructure, which has already created 100-day action plans for the electricity and natural gas pipeline sectors, with more to come, and we institutionalized that Initiative with a National Security Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems. The voluntary initiative is a collaborative effort between the Federal Government and our private sector partners to significantly improve the cybersecurity of our critical systems by providing technologies that detect threats and can respond in essential control system and operational technology networks. The Department of Homeland Security and the National Institute of Standards and Technology are also partnering with the private sector to develop 'performance goals'—cybersecurity baselines that will improve our Nation's security if critical infrastructure sectors adopt them. Finally, critical infrastructure resilience greatly benefits from close partnerships at home and abroad, and this October, my Administration launched a Counter Ransomware Initiative with more than 30 partners and allies.

At home, my Administration is committed to making a once-in-a-generation investment to prioritize secure, sustainable, and resilient infrastructure. Streamlining access to Federal programs and grants to help States and local government build capacity helps ensure we are modernizing our infrastructure to be more climate-resilient and building a clean energy future that

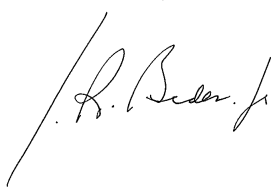
will create millions of jobs. The Bipartisan Infrastructure Deal includes $550 billion for our Nation's roads and bridges, water infrastructure, internet, and more. Our agenda also contains the largest Federal investment in power transmission in our Nation's history, ensuring a more reliable grid that has the capability to carry more renewable energy. These investments will strengthen our Nation and bolster our ability to lead, and they will help mitigate socio-economic disparities, advance racial equity, facilitate equitable recovery, and promote affordable access to opportunities for every American. Protecting our critical transportation infrastructure—including our bridges and roads—takes all of us working together.

A key dimension of the Nation's resilience is safeguarding our democracy, which requires securing our election infrastructure. We have made tremendous progress working with State and local election officials over the past several years, but there is more to be done. We are particularly focused on improving the physical security of election officials as they face increasing threats of violence, securing election systems from cyber attacks, and confronting one of the most significant threats we see today: disinformation campaigns designed to undermine confidence in our elections, and ultimately, confidence in our democracy and our democratic institutions.

The threats against our critical infrastructure are increasingly complex and nuanced, and we all must be prepared to better protect ourselves from malicious actors threatening our cyber and physical security. That means staying vigilant, investing in new security measures, being prepared to respond to threats, and collaborating more with our partners. During Critical Infrastructure Security and Resilience Month, we reaffirm our commitment to protecting our infrastructure today and securing it for tomorrow.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2021 as Critical Infrastructure Security and Resilience Month. I call upon the people of the United States to recognize the importance of protecting our Nation's infrastructure and to observe this month with appropriate measures to enhance our national security and resilience.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–24113
Filed 11–2–21; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10296 of October 29, 2021

National Adoption Month, 2021

By the President of the United States of America

A Proclamation

Every child deserves to grow up with a safe and loving family, with the care and support of their community. During National Adoption Month, we celebrate all of the children and families nurtured, enriched, and made whole by adoption and recommit ourselves to ensuring that every child in America can grow up in a loving and supportive home.

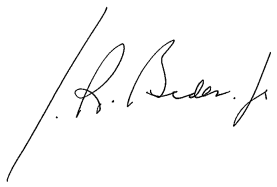
The COVID–19 pandemic has made it especially challenging for children in the foster care system. For thousands of young people in foster care, navigating the challenges of growing up can be especially difficult without stable family connections. Because of the added difficulties imposed by the pandemic, my Administration has implemented the substantial investments made through the Supporting Foster Youth and Families Through the Pandemic Act to help older adolescents transitioning from the foster care system maintain housing, stay in school, pay the bills, and lay a strong foundation for adulthood. My Administration encourages States to continue using these available funds to support older foster youth in every way they can.

During this month, we also acknowledge the history of injustices and racial bias in our Nation's child welfare system. To this day, Black and Native American children are more likely to be removed from their homes, more likely to stay in care longer, and less likely to be adopted than white children. To ensure the equal dignity and care of all our children, we must improve our efforts to keep families together, prevent the trauma of unnecessary child removal, and recruit and support new adoptive families—especially kinship caregivers. Finally, we must further support families who have already taken youth into their homes and invest the time and energy needed to ensure that all children—including LGBTQ+ youth whose needs are not always met in the foster care system—can find the happiness and well-being that every child and young person deserves.

This National Adoption Month, we celebrate the families who have been forged through adoption, including from foster care. We extend our gratitude to the dedicated professionals who work tirelessly to support adoptive families through compassion and hard work and to the foster families who love, care, and provide for our Nation's foster youth. Most importantly, we acknowledge the strength and resiliency of the children and youth who are still waiting to find their forever homes.

NOW, THEREFORE I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2021 as National Adoption Month. I encourage all Americans to observe this month by helping children and youth in need of a permanent home secure a more promising future with a forever family and enter adulthood with the love and connections that are so important to their growth.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–24114
Filed 11–2–21; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10297 of October 29, 2021

National Alzheimer's Disease Awareness Month, 2021

By the President of the United States of America

A Proclamation

For more than 6 million Americans and the family members and friends who love them, Alzheimer's disease can be devastating. This common form of dementia is a cruel and fatal condition that erodes the ability to think, to recall precious memories, and to live independently. During National Alzheimer's Disease Awareness Month, we stand with all those families confronting this challenging disease and recommit ourselves to improving treatment and finding a cure.

A leading cause of death in seniors, Alzheimer's exacts a heartbreaking human toll on our Nation—as well as a deep economic toll, with the cost of treatment exceeding $300 billion in 2020 alone. But recent advances in biomedical science offer hope for better days ahead. As the scientific community continues to make strides toward a better understanding of Alzheimer's—and, ultimately, a cure—it is critical that we do all we can to expedite progress and alleviate the suffering caused by this disease.

To that end, I have asked the Congress to fund a new program called the Advanced Research Projects Agency for Health (ARPA–H). Modeled on the Defense Advanced Research Project Agency, a Government program that led to the creation of the Internet, GPS, and countless other vital technologies, ARPA–H would accelerate our research on detecting, treating, and curing diseases like Alzheimer's. My Administration is also building on the progress of the Obama-Biden Administration's National Plan to address Alzheimer's, which set our Nation on an aggressive course to improve research, provide optimal medical care, and enhance long-term services to meet the needs of families in the United States currently living with this terrible disease. As we pursue this effort, my Administration is also committed to ensuring that people who are disproportionately affected by Alzheimer's and related dementias—especially older Black and Brown Americans, who are 2 to 3 times more likely to be affected—are seen, heard, and included in the quest to treat and prevent these conditions.

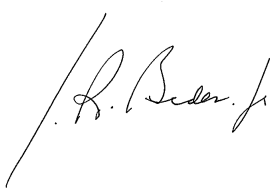
As we mark National Alzheimer's Disease Awareness Month, we also honor those who care and provide for the victims of this devastating disease. The work of our Nation's caregivers can be physically demanding and emotionally exhausting—especially during the COVID–19 pandemic, when caregivers have made substantial sacrifices to protect their loved ones suffering from Alzheimer's. Caregivers deserve our respect as well as our support, which is why the American Rescue Plan invested $145 million to help caregivers provide for their loved ones—a foundation that my Administration's Build Back Better agenda will build upon.

I believe that our Nation stands at an unprecedented moment of scientific promise—it is critical that we keep up the fight against Alzheimer's until a cure is found and continue to care for all those affected by this condition in the meantime. For resources and information on living with or caring for someone with Alzheimer's disease, please visit www.Alzheimers.gov.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2021

as National Alzheimer's Disease Awareness Month. I call upon the people of the United States of America to learn more about Alzheimer's and to offer their support to the individuals living with this disease and to their caregivers.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–24115
Filed 11–2–21; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10298 of October 29, 2021

National College Application Month, 2021

By the President of the United States of America

A Proclamation

When America made 12 years of public education universal more than a century ago, it gave us the best-educated, best-prepared workforce in the world—which in turn was a major part of why we were able to lead the world in the 20th century. Today, however, we know that 12 years is no longer enough to compete. American students deserve every opportunity to gain the skills they need to carve out a place for themselves in tomorrow's economy. But according to a recent study, the United States now ranks 33rd out of 44 advanced economies when it comes to the share of our young people who have attained a degree beyond high school.

If we are going to set the pace around the globe once more—on research and development, innovation and discovery, equity and opportunity, and creating good-paying jobs with dignity—it is imperative that we put an affordable, high-quality education after high school within reach of every American student. During College Application Month, we celebrate the possibilities that postsecondary education provides and encourage Americans to apply to colleges and universities as we work to ensure that every student has a chance to reach their full potential and strengthen our Nation's future.

My Administration is working hard to ensure that higher education is equitable, accessible, and affordable for every student in every community. That is why my Administration Build Back Better framework includes major investments in community colleges, as well as our essential network of Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs), and other Minority Serving Institutions (MSIs). In addition, my plan would increase the Federal Pell Grant award, a key resource to help students from lower-income families afford college—including costs beyond tuition. Each of these investments will help America's young people, including Dreamers, earn a better shot at the good-paying jobs of tomorrow. My Administration is also working to modernize the Free Application for Federal Student Aid form. Finally, we are taking steps to ensure that academic institutions do a better job of providing students with clear and transparent information on how much they can expect to pay for college and their options to afford those costs.

However, as important to our Nation's future as accessing college is, college completion is just as critical. Far too many students enter college only to have to drop out before graduation, and we are seeing firsthand how the pandemic has exacerbated the challenges students face as they seek to complete their studies. COVID–19 has significantly increased economic insecurity for families across the country, particularly for people of color, the LGBTQ+ community, and those in low-income communities, resulting in new, unequal barriers to college enrollment and completion. My Administration stands ready to support our Nation's colleges in welcoming back every student who had to put their education goals on hold due to the pandemic.

My Administration has also called for bold investments in completion and retention at colleges and universities that serve high numbers of low-income students—including community colleges—so that all Americans have the

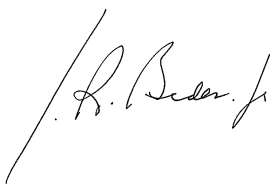
opportunity to obtain an education beyond high school. These investments would help cover proven solutions for student success, including providing wraparound services such as child- and elder-care, mental health services, accessibility resources, and emergency basic needs grants, in order to help more Americans enter and graduate college.

Additionally, my Administration is working hard to provide institutions with funding and flexibility to meet students' needs. Earlier this year, we launched an outreach campaign to millions of Federal Pell Grant recipients who are now eligible for a monthly discount on broadband internet service under a temporary program administered by the Federal Communications Commission. We have also partnered with other agencies across the Federal Government to notify institutions and their students about expanded access to the Supplemental Nutrition Assistance Program, health care benefits, tax cuts for those raising children, and financial aid and postsecondary education opportunities for students and families facing unemployment.

This month, we celebrate the hard work and promise of students across the country and recommit ourselves to building back better by ensuring that everyone in America can pursue and complete a high-quality, affordable higher education. We thank the parents and loved ones, teachers, professors, administrators, financial aid professionals, college access organizations, mentors and counselors who help our students throughout the college application process and beyond.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2021 as National College Application Month. I call upon public officials, educators, parents, students, and all Americans to observe this month with appropriate programs, ceremonies, and activities designed to encourage students to make plans about, apply for, and graduate from college.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–24116
Filed 11–2–21; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10299 of October 29, 2021

National Diabetes Month, 2021

By the President of the United States of America

A Proclamation

Over the last 20 years, our Nation has seen a significant rise in the number of adults diagnosed with diabetes—a chronic condition that can lead to heart disease, kidney disease, vision loss, and other serious health problems. Today, more than 34 million American adults are living with diabetes, and an estimated 88 million more may be at risk of developing the disease. During National Diabetes Month, we draw awareness to all forms of this dangerous condition—including Type 1, Type 2, and gestational diabetes and prediabetes—and recommit ourselves to finding a cure.

Over the last year and a half, people living with diabetes have faced heightened risks to their health, as their illness makes them more vulnerable to the worst effects of COVID–19. This has been especially true for far too many Black, Brown, and Indigenous Americans, who face a disproportionate risk of being diagnosed with diabetes and who have shouldered the burden of the pandemic at disproportionate rates. More young Americans are also living with Type 2 diabetes than ever before, putting them at risk of developing serious health problems later in life. Americans who are diagnosed have faced the added challenge of unacceptably high insulin prices—putting their health and the financial well-being of their family at risk.

My Administration is committed to finding a cure for diabetes. To that end, I have asked the Congress to fund a new agency called the Advanced Research Projects Agency for Health (ARPA–H). Modeled on the Defense Advanced Research Project Agency, a Government program that led to the creation of the Internet, GPS, and countless other vital technologies—ARPA–H would accelerate our research on detecting, treating, and curing diseases like diabetes and Alzheimer's. In addition to this effort, my Administration has provided funding through the American Rescue Plan to address diabetes and other chronic diseases by shoring up our public health infrastructure and combatting hunger and food insecurity. To lower the costs faced by more than 7 million Americans who require insulin to treat their diabetes, I have called on the Congress to give Medicare the power to negotiate prescription drug prices, especially for companies that do not face competition.

As we work together to fight diabetes, my Administration will continue to build on the Affordable Care Act (ACA) and strengthen the coverage it provides for nearly 2 million American adults with diabetes. The ACA continues to connect people with services and health care providers who can ensure appropriate testing, prevention, and treatment of diabetes and the many conditions it can spawn. Millions of families enrolled in private insurance, Medicare, and Medicaid are benefiting from the ACA's critical provisions, which help Americans with diabetes live better, longer lives as we continue searching for a cure.

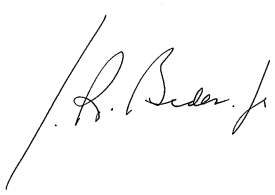
While we continue to seek that cure, my Administration is also working to improve our awareness and prevention of Type 2 diabetes. Thanks in part to the Diabetes Prevention Program at the National Institutes of Health, we know that lifestyle changes—including increased physical activity and

healthy eating—can prevent or delay Type 2 diabetes for people at high risk. Eligible Americans can also take part in the National Diabetes Prevention Program, a lifestyle change program led by the Centers for Disease Control and Prevention (CDC) at sites around the country. Because so many cases of diabetes go undiagnosed, the CDC offers an online risk test so that everyone can learn about their risk factors for the disease.

This year marks the 100th anniversary of the discovery of insulin, a crucial hormone that has saved millions of lives. As we continue our work to lower health care costs, expand coverage, and find a cure for diabetes, we commemorate this important discovery and recommit ourselves to improving treatment for all types of diabetes.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim the month of November 2021 as National Diabetes Month. I call upon all Americans, school systems, government agencies, nonprofit organizations, health care providers, research institutions, and other interested groups to join in activities that raise diabetes awareness and help prevent, treat, and manage the disease.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–24117
Filed 11–2–21; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10300 of October 29, 2021

National Entrepreneurship Month, 2021

By the President of the United States of America

A Proclamation

Every day, American entrepreneurs combine passion, resilience, and ingenuity to solve hard problems and create products and businesses that improve our lives. American entrepreneurs create and scale new technologies, products, and services. They build businesses and, in some cases, entire industries. Their work helps grow our economy, creates good jobs, and increases our prosperity. Entrepreneurs have repeatedly risen to meet our Nation's and our world's complex challenges, and during National Entrepreneurship Month, we celebrate our Nation's entrepreneurs—both past and present—who exemplify the American spirit and recognize their important contributions to our people, our economy, and the world.

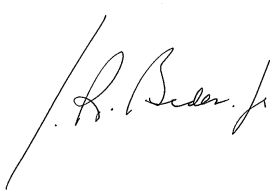
The COVID–19 pandemic has posed historic challenges to our country and our Nation's entrepreneurs. Many businesses closed, and main streets became quiet. Despite these setbacks, American entrepreneurs showed incredible fortitude, finding innovative and effective ways to adapt their businesses as we fight a once-in-a-century crisis. To help our Nation's businesses and entrepreneurs recover during the pandemic, my Administration ensured that nearly $300 billion in forgivable Paycheck Protection Program loans went to our smallest businesses, with more than 95 percent going to businesses with less than 20 employees, and provided over $28 billion in support to over 100,000 businesses through the Restaurant Revitalization Fund. In the midst of the economic disruption caused by the pandemic, Americans started more than 4 million businesses last year, a 24 percent increase from the year before—the highest number of monthly business applications on record—and start-up rates growing the most among immigrants and Black, Latino, and Asian, Native Hawaiian, and Pacific Islander Americans. This is important for our future success, as small businesses are the engines of our economic progress—and the heart and soul of our communities.

My Administration is committed to supporting all of our Nation's entrepreneurs to ensure that they can continue to play a key role in strengthening our economy and our society for years to come. My Administration's Build Back Better framework will deliver on the crucial infrastructure investments that form the foundation for success for entrepreneurs across the country. From investing in universal, affordable broadband to making the largest-ever Federal investments in public transit, passenger rail, and bridges, we will reinvigorate communities and their local economies. My Administration's framework will also provide much needed support for our entrepreneurs, including new loan and venture capital programs targeting the smallest businesses, small manufacturers, clean energy start-ups, and others, as well as investing in childcare, health care, and workforce development. We will also provide more support to businesses seeking to participate in the hundreds of billions of dollars that the Federal Government spends each year in procuring goods and services and investing in research and development. My Administration will fully implement the $10 billion State Small Business Credit Initiative, which will allow States to set up new small business loan and venture capital programs, established by the American Rescue Plan.

Collaboration among entrepreneurs, innovators, and the public sector has led to some of the most important technologies and industries in the world, including cellular communication, energy storage, agricultural technology, and advanced manufacturing. My Administration is proud to support entrepreneurs and innovators throughout this country—from the hardworking women and men who start a business to meet the needs of their communities to the visionaries who strive to change the world. Together, we are partners in solving challenges big and small, global and local—and will work to increase American competitiveness around the world and meet the challenges of the 21st century.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2021 as National Entrepreneurship Month. I call upon all Americans to commemorate this month with appropriate programs and activities and to celebrate November 16, 2021, as National Entrepreneurs' Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–24119
Filed 11–2–21; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10301 of October 29, 2021

National Family Caregivers Month, 2021

By the President of the United States of America

A Proclamation

Every day, millions of Americans provide essential care and medical assistance to their loved ones. These acts of love, commitment, and compassion enable their family members to receive the support they need to live a life with dignity. This has been especially true throughout the COVID–19 pandemic, during which Americans of all ages have made substantial sacrifices to keep family members safe and healthy. During National Family Caregivers Month, we recognize the important role of our Nation's family caregivers and thank them for the invaluable and instrumental care they provide.

While the opportunity to provide care to a loved one can be a blessing and a source of connection, it often requires sacrifice. Millions of Americans have sacrificed jobs and altered careers in order to perform caregiving duties. Workers, their families, and our economy suffer when workers are forced to choose between their jobs and their caregiving responsibilities or between putting food on the table and caring for a relative. Too many Americans who need caregiving support struggle with the high costs of caring for a family member in need, or providing long-term care for people with disabilities or older adults.

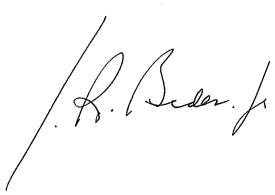
My Administration is committed to strengthening American families and easing the burdens of caregiving. That is why my American Rescue Plan provided an additional $145 million in funding for the National Family Caregiver Support Program, which continues to help State and community organizations support family and informal caregivers through in-home programs including counseling, respite care, and training. The American Rescue Plan also provided States with additional Medicaid funding to strengthen and enhance their home- and community-based services (HCBS) program. My Administration's Build Back Better agenda will build on this down payment by continuing to invest in the caregiving infrastructure for HCBS and increasing pay and benefits to address the direct care workforce crisis. I will also fight to expand paid family and medical leave nationwide. Each of these elements is critical to better supporting family caregivers. We want to see our Nation's paid caregivers, including the majority of home health care workers and over 90 percent of child care workers who are women—disproportionately women of color—have jobs that provide dignity, safety, and decent pay.

Earlier this year, the RAISE (Recognize, Assist, Include, Support, and Engage) Family Caregiving Advisory Council, with support from the Department of Health and Human Services, delivered an initial report on how the Federal, State, Tribal, and local governments can work with our partners in the private sector to better support our Nation's family caregivers, and we will continue working to provide that support.

As my own family members have been caregivers, I understand the struggles family caregivers face and the importance of the care they provide. This month, as we continue our fight to expand access to caregiving, we recognize our caregivers who wake up every single day to do this physically and emotionally demanding yet vitally important work.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2021 as National Family Caregivers Month. I encourage all Americans to reach out to those who provide care for their family members, friends, and neighbors in need, to honor and to thank them.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–24120
Filed 11–2–21; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10302 of October 29, 2021

National Native American Heritage Month, 2021

By the President of the United States of America

A Proclamation

The United States of America was founded on an idea: that all of us are created equal and deserve equal treatment, equal dignity, and equal opportunity throughout our lives. Throughout our history—though we have always strived to live up to that idea and have never walked away from it—the fact remains that we have fallen short many times. Far too often in our founding era and in the centuries since, the promise of our Nation has been denied to Native Americans who have lived on this land since time immemorial.

Despite a painful history marked by unjust Federal policies of assimilation and termination, American Indian and Alaska Native peoples have persevered. During National Native American Heritage Month, we celebrate the countless contributions of Native peoples past and present, honor the influence they have had on the advancement of our Nation, and recommit ourselves to upholding trust and treaty responsibilities, strengthening Tribal sovereignty, and advancing Tribal self-determination.

The COVID–19 pandemic has highlighted and exacerbated preexisting inequities facing Tribal Nations. Early in the pandemic, reported cases in the Native American community were over 3 times the rate of white Americans; in some States, Native American lives were lost at a rate 5 times their population share. Even as they shouldered a disproportionate burden throughout the pandemic, Tribal Nations have been paragons of resilience, determination, and patriotism—implementing key mitigation strategies like testing and prioritizing the vaccination of Tribal communities at high rates in order to save lives. Through it all, Tribal Nations have effectively utilized the tools of Tribal self-governance to protect and lead their communities, setting a standard for all of our communities to follow.

Our Nation cannot live up to the promise of our founding as long as inequities affecting Native Americans persist. My Administration is committed to advancing equity and opportunity for all American Indians and Alaska Natives and to helping Tribal Nations overcome the challenges that they have faced from the pandemic, climate change, and a lack of sufficient infrastructure in a way that reflects their unique political relationship.

As a starting point, the American Rescue Plan represented the most significant funding legislation for Indian Country in the history of our Nation—the largest single Federal investment in Native communities ever, with $20 billion in direct funding to help Tribal governments combat and emerge from the COVID–19 crisis. Through the Bipartisan Infrastructure Deal and my Build Back Better framework, my Administration is pushing for strong Tribal participation to help build our Nation's clean energy future, deploy clean water and high-speed internet to every home, and invest in Native American families, businesses, jobs, and communities.

In my first week in office, I also signed a Presidential Memorandum committing my Administration to the fulfillment of our Federal trust and treaty responsibilities, to respect Tribal self-governance, and to conduct regular, meaningful, and robust consultations with Tribal Nations on a broad range

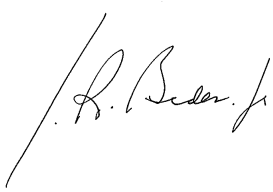
of policy issues. Together, we are implementing a whole-of-government approach to empower Tribal Nations in their efforts to achieve political and economic self-sufficiency, advance climate resiliency, and protect their territorial sovereignty. To further elevate the voices of Native Americans in my Administration, I restarted the White House Council on Native American Affairs earlier this year. It was among the proudest honors of my life to appoint one of our country's most remarkable leaders, Deb Haaland of the Pueblo of Laguna, to serve as United States Secretary of the Interior—the first Native American in the history of our Nation to serve in the Cabinet.

During National Native American Heritage Month, we also honor our Native Americans veterans and service members who have courageously served and continue to serve in our Armed Forces—including the brave Native American Code Talkers in World War I and World War II. For over 200 years, Native Americans have defended our country during every major conflict and continue to serve at a higher rate than any other ethnic group in the Nation. Because of their selflessness, every generation of Americans receives the precious gift of liberty—and we owe each of them and their families a debt of gratitude for their sacrifice and dedication.

Native American roots are deeply embedded in this land—a homeland loved, nurtured, strengthened, and fought for with honor and conviction. This month and every month, we honor the precious, strong, and enduring cultures and contributions of all Native Americans and recommit ourselves to fulfilling the full promise of our Nation together.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2021 as National Native American Heritage Month. I urge all Americans, as well as their elected representatives at the Federal, State, and local levels, to observe this month with appropriate programs, ceremonies, and activities, and to celebrate November 26, 2021, as Native American Heritage Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–24121

Filed 11–2–21; 8:45 am]

Billing code 3395–F2–P

Presidential Documents

Proclamation 10303 of October 29, 2021

National Veterans and Military Families Month, 2021

By the President of the United States of America

A Proclamation

America has the greatest Armed Forces in the history of the world. To those who serve and those that serve alongside them—their families and caregivers—we owe a debt we can never fully repay. During National Veterans and Military Families Month, we recognize and thank them for their indispensable contributions and immeasurable sacrifices in support of our national security. As we approach this season of thanksgiving, we send our gratitude to millions of service members, veterans, military families, caregivers, and survivors who have served and continue to serve our Nation. I have said many times, and it comes from my heart—we as a Nation have a sacred obligation to properly equip and prepare our troops when we send them in to harm's way and to support them and their families, both while they are deployed and when they return home.

The First Lady and I know that it is not only the person who wears the uniform serving our country but also their families who make enormous sacrifices for our Nation. As the poet John Milton wrote, ''They also serve who only stand and wait.'' We understand the feelings of pride, uncertainty, and fear when a loved one is deployed. Every morning, you wake up and say that extra prayer for them.

Our veteran and military families do so much and ask for little. They are strong and adaptable, changing course to accommodate the needs of our country, often foregoing personal wishes. They are capable and proud, holding down the home front during their loved one's deployments, coping through their absence and the risk of danger, and helping them readjust when they come home.

These families and their Soldiers, Sailors, Airmen, Marines, Guardians, and Coast Guardsmen, are simply the best America has to offer. When they do not have what they need to thrive, it is not only individuals who suffer. If service members are worried that their spouse is struggling to keep food on the table or that their child is having a hard time at school, it is harder to focus on their mission. That is why supporting military families is a national security imperative.

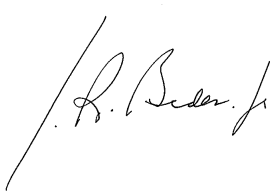
Since the earliest days of my Administration, we have been committed to a whole-of-government approach to responding to the real-time needs of our military and veteran families. Through Joining Forces, the White House initiative to support veteran and military families, caregivers, and survivors, my Administration is addressing military spouse employment and entrepreneurship, military child education, and family health and well-being. The First Lady has met with our Nation's military and veteran families, caregivers, survivors, and advocates to learn how we can better support and prioritize their needs. Those discussions help inform the efforts across the Government to share data, create innovative solutions, and implement evidence-based programs and policies. In September, Joining Forces and the National Security Council released a report outlining the first round of Administration-wide commitments and proposals for supporting military

and veteran families, caregivers, and survivors. We are committed to continuing these efforts because we must, and we will, honor our sacred obligation to support our military and veteran families and ensure they receive the resources they need to thrive.

Throughout November, we show our appreciation to the spouses, partners, children, caregivers, and survivors of our service members and veterans for their selfless sacrifice on behalf of the Nation. We honor them and their invaluable contributions; we share their pride in our Armed Forces; and we will never forget what they and their loved ones do for us.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2021 as National Veterans and Military Families Month. I call upon the people of the United States to honor veterans and military families with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–24122
Filed 11–2–21; 8:45 am]
Billing code 3395–F2–P

Rules and Regulations

Federal Register
Vol. 86, No. 210
Wednesday, November 3, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 590

[Docket No. FSIS–2005–0015]

RIN 0583–AC58

Egg Products Inspection Regulations; Correction

AGENCY: Food Safety and Inspection Service, Department of Agriculture (USDA).

ACTION: Correcting amendment.

SUMMARY: The Food Safety and Inspection Service (FSIS) is correcting its regulations requiring official plants that process egg products (herein also referred to as ''egg products plants'' or ''plants'') to develop and implement Hazard Analysis and Critical Control Point (HACCP) Systems and Sanitation Standard Operating Procedures (Sanitation SOPs) and to meet other sanitation requirements consistent with FSIS' meat and poultry regulations.

DATES: This correction is effective November 3, 2021, except for amendatory instructions 3 and 5, which are effective October 31, 2022.

FOR FURTHER INFORMATION CONTACT: Victoria Levine, Program Analyst, Office of Policy and Program Development by telephone at (202) 690–3184.

SUPPLEMENTARY INFORMATION: FSIS is making changes to the egg products inspection regulations because plants that have not already implemented HACCP will continue to need to meet the times and temperatures contained in Table 1 of 9 CFR 590.530 and the times and temperatures found in 9 CFR 590.536 until the HACCP regulations become effective on October 31, 2022.

List of Subjects in 9 CFR Part 590

Eggs and egg products, Exports, Food grades and standards, Food labeling, Imports, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 9 CFR part 590 is corrected by making the following correcting amendments:

PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

■ 1. The authority citation for part 590 continues to read as follows:

Authority: 21 U.S.C. 1031–1056; 7 CFR 2.18, 2.53.

■ 2. Add § 590.530 to read as follows:

§ 590.530 Liquid egg cooling.

(a) through (b) [Reserved]

(c) The cooling and temperature requirements for liquid egg products shall be as specified in Table 1 to this section.

TABLE 1 TO § 590.530—MINIMUM COOLING AND TEMPERATURE REQUIREMENTS FOR LIQUID EGG PRODUCTS

[Unpasterurized product temperature within 2 hours from time of breaking]

Product	Liquid (other than salt product) to be held 8 hours or less	Liquid (other than salt product) to be held in excess of 8 hours	Liquid salt product	Temperature within 2 hours after pasteurization	Temperature within 3 hours after stabilization
Whites (not to be stabilized).	55 °F or lower ...	45 °F or lower ...	.....	45 °F or lower.	
Whites (to be stabilized).	70 °F or lower ...	55 °F or lower ...	.....	55 °F or lower	(1).
All other product (except product with 10 percent or more salt added).	45 °F or lower ...	40 °F or lower ...	.....	If to be held 8 hours or less 45 °F or lower. If to be held in excess of 8 hours, 40 °F or lower.	If to be held 8 hours or less, 45 °F or lower. If to be held in excess of 8 hours, 40 °F or lower.
Liquid egg product with 10 percent or more salt added.	.....	.....	If to be held 30 hours or less, 65 °F or lower. If to be held in excess of 30 hours, 45 °F or lower.	65 °F or lower 2.	

1 Stabilized liquid whites shall be dried as soon as possible after removal of glucose. The storage of stabilized liquid whites shall be limited to that necessary to provide a continuous operation.

2 The cooling process shall be continued to assure that any salt product to be held in excess of 24 hours is cooled and maintained at 45 °F or lower.

(d) Upon written request and under such conditions as may be prescribed by the National Supervisor, liquid cooling and holding temperatures not otherwise provided for in this section may be approved.

(e) through (g) [Reserved]

§ 590.530 [Removed]

■ 3. Effective October 31, 2022, remove § 590.530.

§ 590.536 [Amended]

■ 4. Add § 590.536 to read as follows:

§ 590.536 Freezing operations.

(a) [Reserved]

(b)(1) Nonpasteurized egg products which are to be frozen shall be solidly frozen or reduced to a temperature of 10 °F or lower within 60 hours from time of breaking.

(2) Pasteurized egg products which are to be frozen shall be solidly frozen or reduced to a temperature of 10 °F or lower within 60 hours from time of pasteurization.

(3) The temperature of the products not solidly frozen shall be taken at the center of the container to determine compliance with this section.

(c) through (e) [Reserved]

§ 590.536 [Removed]

■ 5. Effective October 31, 2022, remove § 590.536.

Done at Washington, DC.

Theresa Nintemann,

Deputy Administrator.

[FR Doc. 2021–23703 Filed 11–2–21; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0836; Project Identifier MCAI–2020–01629–E; Amendment 39–21759; AD 2021–20–21]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. (Type Certificate Previously Held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2018–16–10 which applied to certain GE Aviation Czech s.r.o. (GEAC) H80–200 model turboprop engines. AD 2018–16–10 required an adjustment of the engine push-pull control and replacement of the beta switch to prevent the propeller governor control from going to a negative thrust position. This AD requires an initial inspection and adjustment of the engine push-pull control and replacement of the beta switch. This AD also requires inspection and adjustment of the engine push-pull control after any maintenance, repair or modification that affects the push-pull control and installation of an improved push-pull control. This AD also expands the applicability to include GEAC H85–200 model turboprop engines with Avia Propeller AV–725 propellers installed. This AD was prompted by an accident involving an Aircraft Industries (AI) L 410 UVP–E20 airplane caused by one propeller going to a negative thrust position during the landing approach. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 18, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 18, 2021.

The FAA must receive any comments on this AD by December 20, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9, Letňany, Czech Republic; phone: +420 222 538 111. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0836.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0836; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for the Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; fax: (781) 238–7199; email: *barbara.caufield@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued AD 2018–16–10, Amendment 39–19350 (83 FR 43742, August 28, 2018) (AD 2018–16–10), for certain GE Aviation Czech H80–200 model turboprop engines. AD 2018–16–10 required replacement of the beta switch and adjustment of the engine push-pull control to prevent the propeller governor control from going to a negative thrust position. AD 2018–16–10 resulted from an accident involving an AI L 410 UVP–E20 airplane caused by one propeller going to a negative thrust position during the landing approach. The FAA issued AD 2018–16–10 to require engine modification to prevent asymmetric thrust. The unsafe condition, if not addressed, could result in failure of the beta switch, loss of engine thrust control, and reduced control of the airplane.

Actions Since AD 2018–16–10 Was Issued

Since the FAA issued AD 2018–16–10, the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2020–0143, dated June 25, 2020, to address an unsafe condition for the specified products. The MCAI states:

> In 2017, a fatal accident was reported of an L 410 UVP–E20 aeroplane. The investigation determined that there was an annunciation of Beta mode on the right-hand engine, that the propeller went inadvertently beyond the fine pitch position and reached a negative thrust position, and that the pitch lock system did not intervene. The event occurred on approach at a speed and altitude which did not allow the flight crew to recover this control system malfunction.
>
> This condition, if not corrected, could lead to reduced control or loss of control of the aeroplane.
>
> To address this unsafe condition, GEAC issued the SB, providing inspection and modification instructions, and EASA issued AD 2018–0075 to require a one-time inspection and adjustment of the engine push-pull control and replacement of the beta switch with an improved part. Addressing the same unsafe condition at aeroplane level, EASA also issued AD 2018–0057, requiring modification of affected AI L 410 UVP–E20 and L 410 UVP–E20 CARGO aeroplanes, if equipped with H80–200

engines and Avia Propeller AV 725 propellers.

After EASA AD 2018–0075 was issued, it was identified that the engine push-pull control settings may be inadvertently changed after certain maintenance, repair, or modification action. For that reason, the engine push-pull control needed further inspection and adjustment. Affected maintenance, repair, or modification procedures include, but are not limited to, the replacement of a fuel control unit or a propeller governor. Furthermore, it was determined that H85–200 engines are also affected by the new requirements. Consequently, EASA issued AD 2019–0089, retaining the requirements of EASA AD 2018–0075, which was superseded, and requiring conditional repetitive inspections and, depending on findings, adjustment of the push-pull control settings. That [EASA] AD also expanded the applicability to include H85–200 engines.

After EASA AD 2019–0089 was issued, GEAC developed an improved engine push-pull control which reduces further the risk of uncommanded in-flight reverse of the propeller, and published the original issue of the ASB–2. Consequently, EASA issued AD 2019–0244, retaining the requirements of EASA AD 2019–0089, which was superseded, and requiring installation of the new engine push-pull controls. That [EASA] AD also required inspections of modified engines.

Since that [EASA] AD was issued, based on the field experience gained from the inspections and replacements of Push-Pull Control System performed in accordance with the ASB–2 revision 03, GEAC issued the ASB–2 (now at revision 04), as defined in this [EASA] AD, which provides additional clarifications and more accurate description of the adjustments of the controls and regulation and engine testing after hardware replacement. The ASB–2 also improves the sequence of steps, thus helping to prevent erroneous accomplishment of the inspection and modification instructions. It has also been determined that for certain engines no repetitive inspections are required.

For the reason described above, this [EASA] AD partially retains the requirements of EASA AD 2019–0244, which is superseded, but requires accomplishment of required actions in accordance with the improved GEAC instructions.

You may obtain further information by examining the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0836.

The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

This product has been approved by EASA and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI. The FAA is issuing this AD because the agency evaluated the relevant information provided by EASA and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GEAC Service Bulletin (SB) SB–H80–76–00–00–0036 [02], Revision No. 02, dated March 29, 2018; GEAC SB SB–H80–76–00–00–0036 [03], Revision No. 03, dated April 12, 2019; and GEAC Alert SB ASB–H80–76–00–00–0048[01]/ASB–H85–76–00–00–0015 [01] (single document, formatted as service bulletin identifier [revision number]), dated April 12, 2019. The SBs and the Alert SB, differentiated by affected engine model, describe procedures for inspecting and adjusting the engine push-pull control, part number (P/N) M601–76.3. The SBs also describe procedures for replacing beta switch, P/N P–S–2, with beta switch, P/N P–S–2A. The Alert SB also adds GEAC H85–200 model turboprop engines to its effectivity.

The FAA also reviewed GEAC Alert SB ASB–H80–76–00–00–0047[04]/ASB–H85–76–00–00–0018[04] (single document, formatted as service bulletin identifier [revision number]), dated May 8, 2020. The Alert SB describes procedures for replacing and inspecting the engine push-pull control system.

The FAA also reviewed Section 72–00–00, Engine—Planned Inspections, dated December 14, 2012; of the GE Aviation—Business & General Aviation—Turboprops Maintenance Manual, Manual Part No. 0983402, Rev. 22, dated December 18, 2020 (the GE Aviation Maintenance Manual). Section 72–00–00 of the GE Aviation Maintenance Manual describes procedures for performing Type 2 and Type 3 inspections.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

AD Requirements

This AD requires inspection and adjustment of the engine push-pull control, replacement of certain beta switches, inspection and adjustment of the engine push-pull control after any maintenance, repair or modification action that affects the push-pull control, and installation of an improved push-pull control.

Differences Between This AD and the MCAI or Service Information

EASA AD 2020–0143 specifies installation allowances for Group 4 and Group 5 engines. This AD does not specify allowances, as it simply allows installation of engines with push-pull control P/N M601–76.5 or M601–76.4, as applicable, installed.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

The FAA justifies waiving notice and comment prior to adoption of this rule because no domestic operators use this product. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the foregoing reason, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0836 and Project Identifier MCAI–2020–01629–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act

(FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 0 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect and adjust push-pull control after any maintenance, repair or modification.	4 work-hours × $85 per hour = $340	$0	$340	$0
Inspect and adjust push-pull control and replace beta switch.	8 work-hours × $85 per hour = $680	1,916	2,596	0
Install push-pull control	4 work-hours × $85 per hour = $340	5,525	5,865	0

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the inspection. The FAA has no way of determining the number of aircraft that might need these replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Inspect push-pull control (paragraphs (g)(6) through (8)).	2 work-hours × $85 per hour = $170	$0	$170
Remove and replace beta switch (paragraph (g)(6))	4 work-hours × $85 per hour = $340	1,916	2,256
Adjust push-pull control (paragraph (g)(6))	3 work-hours × $85 per hour = $255	0	255

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2018–16–10, Amendment 39–19350 (83 FR 43742, August 28, 2018); and

■ b. Adding the following new airworthiness directive:

2021–20–21 GE Aviation Czech s.r.o. (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.): Amendment 39–21759; Docket No. FAA–2021–0836; Project Identifier MCAI–2020–01629–E.

(a) Effective Date

This airworthiness directive (AD) is effective November 18, 2021.

(b) Affected ADs

This AD replaces AD 2018–16–10, Amendment 39–19350 (83 FR 43742, August 28, 2018) (AD 2018–16–10).

(c) Applicability

This AD applies to:

(1) GE Aviation Czech s.r.o. (GEAC) H80–200 model turboprop engines with propeller governor part number (P/N) P–W22–1, and Avia Propeller AV–725 propellers installed.

(2) GEAC H85–200 model turboprop engines (build configuration BC04) with Avia Propeller AV–725 propellers installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7600, Engine Controls; 6122, Propeller Governor.

(e) Unsafe Condition

This AD was prompted by an accident involving an Aircraft Industries L 410 UVP–E20 airplane caused by one propeller going to a negative thrust position during the landing approach. The FAA is issuing this AD to prevent asymmetric thrust. The unsafe condition, if not addressed, could result in failure of the beta switch, loss of engine thrust control, and reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) For Group 1 engines: Within 25 flight hours (FHs) or 20 flight cycles after September 12, 2018 (the effective date of AD 2018–16–10), or before further flight, whichever occurs later, inspect and adjust the engine push-pull control, P/N M601–76.3, and replace beta switch, P/N P–S–2, with beta switch, P/N P–S–2A, using paragraphs 1.6 and 1.7 of GEAC Service Bulletin (SB) SB–H80–76–00–00–0036 [03], (formatted as service bulletin identifier [revision number]), dated April 12, 2019 (GEAC SB SB–H80–76–00–00–0036 [03]) or paragraphs 1.6 and 1.7 of GEAC SB–H80–76–00–00–0036 [02], Revision No. 02, dated March 29, 2018.

(2) For Group 1, Group 2, and Group 3 engines: Before further flight after any maintenance, repair, or modification on the engine, propeller, or airplane that can affect the settings of the engine push-pull control after the effective date of this AD, inspect and adjust the engine push-pull control, P/N M601–76.3, using paragraph 1.6 of GEAC Alert Service Bulletin (ASB) ASB–H80–76–00–00–0048[01]/ASB–H85–76–00–00–0015 [01] (single document, formatted as service bulletin identifier [revision number]), dated April 12, 2019 (GEAC ASB ASB–H80–76–00–00–0048[01]/ASB–H85–76–00–00–0015 [01]).

(3) For Group 1, Group 2, and Group 3 engines: Within 270 days after the effective date of this AD, replace the engine push-pull control, P/N M601–76.3, with engine push-pull control P/N M601–76.4 or P/N M601–76.5, as applicable to the engine model, using Appendix 1 of GEAC ASB ASB–H80–76–00–00–0047[04]/ASB–H85–76–00–00–0018[04] (single document, formatted as service bulletin identifier [revision number]), dated May 8, 2020 (GEAC ASB ASB–H80–76–00–00–0047[04]/ASB–H85–76–00–00–0018[04]).

(4) For engines modified as required by paragraph (g)(3) of this AD: Within 100 FHs or during a subsequent Type 2 inspection, whichever occurs first after the engine modification required by paragraph (g)(3) of this AD, and thereafter, at intervals not to exceed 100 FHs from the previous inspection, inspect the engine push-pull control, P/N M601–76.4 or P/N M601–76.5, using the Accomplishment Instructions, paragraph 2.1.2, of GEAC ASB–H80–76–00–00–0047[04]/ASB–H85–76–00–00–0018[04].

Note 1 to paragraph (g)(4): A non-cumulative tolerance of 10 FH may be applied to the 100 FH repetitive inspection interval to allow synchronization of the required checks with other required maintenance tasks for which a non-cumulative tolerance is already granted in the applicable engine maintenance manual (EMM).

(5) For all affected engines not required to be modified as specified in paragraph (g)(3) of this AD: Within 300 FHs or at the next Type 3 inspection, whichever occurs later since first installation of the engine on an airplane, inspect the engine push-pull control, P/N M601–76.4 or P/N M601–76.5, as applicable, using the instructions in Table 601 (Sheet 1–4) of Section 72–00–00, dated December 14, 2012, of the GE Aviation—Business & General Aviation—Turboprops Maintenance Manual, Manual Part No. 0983402, Rev. 22, dated December 18, 2020 (the GE Aviation Maintenance Manual).

(6) If, during any inspection required by paragraph (g)(1) or (2) of this AD, as applicable, any deficiencies are detected, before next flight, perform the actions in paragraphs 1.6.2, 1.7.1 and 1.7.2 of GEAC SB SB–H80–76–00–00–0036 [03] or paragraph 1.6.1 of GEAC ASB ASB–H80–76–00–00–0048[01]/ASB–H85–76–00–00–0015 [01], as applicable.

(7) If, during any inspection required by paragraph (g)(4) of this AD, any deficiencies are detected, before next flight, perform the actions in paragraph 2.1.2 of GEAC ASB ASB–H80–76–00–00–0047[04]/ASB–H85–76–00–00–0018[04].

(8) If, during the inspection as required by paragraph (g)(5) of this AD, any deficiencies are detected, before next flight, correct those deficiencies using the instructions in Table 601 (Sheet 1–4), Section 72–00–00, Engine—Planned Inspections, dated December 14, 2012, of the GE Aviation Maintenance Manual.

(h) Installation Prohibition

After the effective date of this AD:

(1) For Group 1 engines: Do not install a beta switch, P/N P–S–2, on any engine, after modification of the engine as required by paragraph (g)(1) of this AD.

(2) For Group 2, Group 3, Group 4, and Group 5 engines: Do not install a beta switch, P/N P–S–2, on any engine.

(3) For Group 1, Group 2, and Group 3 engines: Do not install an engine push-pull control, P/N M601–76.3, on any engine after modification of the engine as required by paragraph (g)(3) of this AD.

(i) Terminating Action

Accomplishing the inspection of the engine push-pull control, P/N M601–76.4 or P/N M601–76.5, as required by paragraph (g)(4) of this AD, without finding any deficiencies during six consecutive inspections, constitutes a terminating action for the repetitive inspections required by paragraph (g)(4) of this AD for that engine.

(j) No Communication or Reporting Requirements

The instructions to contact the manufacturer for further instructions in paragraph 2.1, of GEAC ASB ASB–H80–76–00–00–0047[04]/ASB–H85–76–00–00–0018[04], are not required by this AD.

(k) Definitions

(1) Group 1 engines are GEAC H80–200 model turboprop engines that have an engine push-pull control, P/N M601–76.3, and a beta switch, P/N P–S–2, installed.

(2) Group 2 engines are GEAC H80–200 model turboprop engines that have an engine push-pull control, P/N M601–76.3, but no beta switch, P/N P–S–2, installed.

(3) Group 3 engines are GEAC H85–200 model turboprop engines (build configuration BC04) that have an engine push-pull control, P/N M601–76.3, installed.

(4) Group 4 engines are GEAC H80–200 model turboprop engines that have an engine push-pull control, P/N M601–76.5, installed.

(5) Group 5 engines are GEAC H85–200 model turboprop engines (build configuration BC04) that have an engine push-pull control, P/N M601–76.4, installed.

(6) For the purpose of this AD, ''deficiencies'' occur when the push-pull control settings are changed, thereby allowing the propeller to go beyond fine pitch into negative thrust position during certain engine failure modes.

(l) Credit for Previous Actions

(1) You may take credit for the inspection and adjustment of the engine push-pull control required by paragraph (g)(2) of this AD if you performed the actions before the effective date of this AD using GEAC ASB–H80–76–00–00–0048[00]/ASB–H85–76–00–00–0015[00] (single document), dated April 12, 2019.

(2) You may take credit for the installation of the engine push-pull control required by paragraph (g)(3) of this AD and the initial inspection of the engine push-pull control required by paragraph (g)(4) of this AD, if you performed these actions before the effective date of this AD using GEAC ASB ASB–H80–76–00–00–0047[03]/ASB–H85–76–00–00–0018[03] (single document), Revision No. 03, dated August 7, 2019, or earlier revisions.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in paragraph (n)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(n) Related Information

(1) For more information about this AD, contact Barbara Caufield, Aviation Safety

Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; fax: (781) 238–7199; email: *barbara.caufield@faa.gov.*

(2) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2020–0143, dated June 25, 2020, for related information. This MCAI may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0836.

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) GE Aviation Czech (GEAC) Service Bulletin (SB) SB–H80–76–00–00–0036 [02], Revision No. 02, dated March 29, 2018.

(ii) GEAC SB SB–H80–76–00–00–0036 [03], Revision No. 03, dated April 12, 2019.

(iii) GEAC Alert SB ASB–H80–76–00–00–0048[01]/ASB–H85–76–00–00–0015 [01] (single document), Revision No. 01, dated April 12, 2019.

(iv) GEAC Alert SB ASB–H80–76–00–00–0047[04]/ASB–H85–76–00–00–0018 [04] (single document), Revision No. 04, dated May 8, 2020.

(v) Section 72–00–00, pages 603 through 605, dated December 14, 2012; and page 606, dated December 18, 2020, of GE Aviation Business & General Aviation—Turboprops Maintenance Manual, Manual Part No. 0983402, Rev. 22, dated December 18, 2020.

(3) For GEAC and GE Aviation service information identified in this AD, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9, Letňany, Czech Republic; phone: +420 222 538 111.

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on September 23, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–23879 Filed 11–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0560; Project Identifier MCAI–2021–00192–T; Amendment 39–21764; AD 2021–21–04]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This AD was prompted by reports that the sliding bushings in the forward engine mount system were missing. This AD requires an inspection (gap check) of the front and aft engine mounts to verify the proper installation of the sliding bushings, and repair if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 8, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 8, 2021.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0560.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0560; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2021–04, dated February 15, 2021 (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0560.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The NPRM published in the **Federal Register** on July 9, 2021 (86 FR 36243). The NPRM was prompted by reports that the sliding bushings in the forward engine mount system were missing. The NPRM proposed to require an inspection (gap check) of the front and aft engine mounts to verify the proper installation of the sliding bushings, and repair if necessary. The FAA is issuing this AD to address redistribution of load/stress on the mount components, which may decrease the component fatigue life; failure of the mount structural components could result in the loss of the engine attachment to the airframe. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comment received on the NPRM and the FAA's response to the comment.

Request To Update Certain Service Information and Provide Credit for Actions Accomplished Using Previous Service Information

Bombardier, Inc., stated that Bombardier Service Bulletin 700–71–005, dated December 14, 2020, has been updated to Bombardier Service Bulletin 700–71–005, Revision 01, dated April

16, 2021. Bombardier, Inc., commented that the revised service information provides a clarification specifically for a German registered airplane having a serial number with a specific configuration from a previous repair; no other changes were made between revision levels. Bombardier, Inc., requested that, if Bombardier Service Bulletin 700–71–005, Revision 01, dated April 16, 2021, is referenced, credit be provided for operators that have previously completed the applicable actions using Bombardier Service Bulletin 700–71–005, dated December 14, 2020.

The FAA agrees to update this final rule to reference Bombardier Service Bulletin 700–71–005, Revision 01, dated April 16, 2021, for the reasons provided above; the technical content and the intent of the service information remains unchanged. The FAA has also added paragraph (i) of this AD to provide credit for Bombardier Service Bulletin 700–71–005, dated December 14, 2020, for previous actions that were performed before the effective date of this AD. In addition, subsequent paragraphs have been re-identified accordingly.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule with the change described previously and minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued the following service information.

- Bombardier Service Bulletin 700–1A11–71–005, dated December 14, 2020.
- Bombardier Service Bulletin 700–71–005, Revision 01, dated April 16, 2021.
- Bombardier Service Bulletin 700–71–5005, dated December 14, 2020.
- Bombardier Service Bulletin 700–71–5501, dated December 14, 2020.
- Bombardier Service Bulletin 700–71–6005, dated December 14, 2020.
- Bombardier Service Bulletin 700–71–6501, dated December 14, 2020.

This service information describes procedures for verifying the proper installation of the sliding bushings by doing an inspection (gap check), including a gap outside acceptable limits, a missing or damaged nut or bolt at the upper side of front mount beam, and a bolt that turns freely with finger pressure. These documents are distinct since they apply to different airplane serial numbers. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 376 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
11 work-hours × $85 per hour = $935	$0	$935	$351,560

The FAA has received no definitive data on which to base the cost estimates for the repairs specified in this AD.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2021–21–04 Bombardier, Inc.: Amendment 39–21764; Docket No. FAA–2021–0560; Project Identifier MCAI–2021–00192–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 8, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers 9002 through 9879 inclusive, 9998, 60001 through 60005 inclusive, 60007, 60009, 60015, 60016, and 60024.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Unsafe Condition

This AD was prompted by reports that the sliding bushings in the forward engine mount system were missing. The FAA is issuing this AD to address redistribution of load/stress on the mount components, which may decrease the component fatigue life; failure of the mount structural components could result in the loss of the engine attachment to the airframe.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection and Corrective Action

Within 15 months or 750 flight hours, whichever occurs first, after the effective date of this AD: Verify the proper installation of the sliding bushings by doing an inspection (gap check) for discrepancies of the front and aft engine mounts, in accordance with paragraphs 2.B. through 2.F. of the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraph (g) of this AD. If any discrepancy is found: Before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature. Where a serial number is identified in more than one row in figure 1 to paragraph (g) of this AD, the applicable service information is identified based on the marketing designations in paragraph 1.M., ''Equivalent Service Bulletins,'' of the service information.

Figure 1 to paragraph (g) – *Service Information*

Serial Numbers–	Model–	Bombardier Service Bulletin–
9002 to 9312 inclusive, 9314 to 9380 inclusive, and 9384 to 9429 inclusive	BD-700-1A10 airplanes	700-71-005, Revision 01, dated April 16, 2021
9313, 9381, 9432 to 9860 inclusive, 9863 to 9871 inclusive, 9873 to 9879 inclusive, 60005, and 60024	BD-700-1A10 airplanes	700-71-6005, dated December 14, 2020
9861, 9872, 60001 to 60004 inclusive, 60009, and 60016	BD-700-1A10 airplanes	700-71-6501, dated December 14, 2020
9127 to 9383 inclusive, 9389 to 9400 inclusive, 9404 to 9431inclusive, and 9998	BD-700-1A11 airplanes	700-1A11-71-005, dated December 14, 2020
9386, 9401, 9445 to 9862 inclusive, and 9868 to 9879 inclusive	BD-700-1A11 airplanes	700-71-5005, dated December 14, 2020
60007 and 60015	BD-700-1A11 airplanes	700-71-5501, dated December 14, 2020

(h) No Reporting Requirement

Although the service information identified in table 1 to paragraph (g) of this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 700–71–005, dated December 14, 2020.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD

CF–2021–04, dated February 15, 2021, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0560.

(2) For more information about this AD, contact Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Service Bulletin 700–1A11–71–005, dated December 14, 2020.

(ii) Bombardier Service Bulletin 700–71–005, Revision 01, dated April 16, 2021.

(iii) Bombardier Service Bulletin 700–71–5005, dated December 14, 2020.

(iv) Bombardier Service Bulletin 700–71–5501, dated December 14, 2020.

(v) Bombardier Service Bulletin 700–71–6005, dated December 14, 2020.

(vi) Bombardier Service Bulletin 700–71–6501, dated December 14, 2020.

(3) For service information identified in this AD, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on September 30, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–23869 Filed 11–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0882; Project Identifier MCAI–2021–00929–Q; Amendment 39–21780; AD 2021–22–07]

RIN 2120–AA64

Airworthiness Directives; Umlaut Engineering GmbH (Previously P3 Engineering GmbH) HAFEX (Halon-Free) Hand-Held Fire Extinguishers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Umlaut Engineering GmbH (previously P3 Engineering GmbH) HAFEX (Halon-free) hand-held fire extinguishers (fire extinguishers).This AD was prompted by a report of a safety issue on certain fire extinguishers, where certain environmental factors may prohibit the discharge of the fire extinguisher. This AD requires repetitively inspecting the fire extinguisher, and depending on the results, removing the fire extinguisher from service. This AD also prohibits installing an affected fire extinguisher unless it passes the required inspections. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective November 18, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of November 18, 2021.

The FAA must receive comments on this AD by December 20, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Umlaut Engineering GmbH, Blohmstrasse 12, 21079 Hamburg, Germany; telephone: +49 (0) 551–19240; email: *hafex@umlaut.com;* or web: *https://www.umlaut.com/hafex.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. Service information that is incorporated by reference is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0882.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0882; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued a series of ADs, the most recent being EASA AD 2021–0185R1, dated August 11, 2021 (EASA AD 2021–0185R1), to correct an unsafe condition for Umlaut Engineering GmbH, formerly P3 Engineering GmbH, fire extinguishers, having part number (P/N) P3APP003010A, P/N P3APP003010B, or P/N P3APP003010C. EASA advises of a safety issue that has been reported on the affected fire extinguishers where certain environmental conditions may prohibit discharge of the fire extinguisher. An investigation has determined that prolonged exposure to high temperature conditions can dislodge the spindle in the fire extinguisher head, subsequently making the fire extinguisher inoperative. This condition, if not addressed, could prevent proper extinguishing of a fire in the cabin or cockpit, possibly resulting in damage to the aircraft and injury to the occupants.

Initially, EASA issued EASA AD 2021–0185, dated August 5, 2021 (EASA AD 2021–0185), which required repetitive inspections of each affected

fire extinguisher, and, depending on findings, replacement with a serviceable part, as identified in EASA AD 2021–0185. EASA AD 2021–0185 also required inspection of an affected fire extinguisher prior to the return to service of an aircraft with an affected part installed if the aircraft had been parked or stored for a period of 30 days or more. EASA AD 2021–0185 also required inspection of an affected fire extinguisher prior to installation on any aircraft.

EASA later issued EASA AD 2021–0185R1 to revise EASA AD 2021–0185. EASA AD 2021–0185R1 contains the same requirements, clarifies some nomenclature, removes the Group definitions and references, and adds Note 3 to clarify the parts prohibition.

FAA's Determination

These products have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other products.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Umlaut Vendor Service Bulletin (VSB) Doc. No. P3VSB000003, Issue C, dated August 3, 2021 (VSB P3VSB000003, Issue C). This service information specifies procedures for identifying affected fire extinguishers with P/N P3APP003010A, P3APP003010B, or P3APP003010C. VSB P3VSB000003, Issue C, also specifies procedures for inspecting and depending on the results, replacing affected fire extinguishers.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA also reviewed Umlaut VSB Doc. No. P3VSB000003, Issue A, dated May 10, 2021 (VSB P3VSB000003, Issue A), and Issue B, dated July 14, 2021 (VSB P3VSB000003, Issue B). VSB P3VSB000003, Issue A, and VSB P3VSB000003, Issue B, specify the same procedures as VSB P3VSB000003, Issue C, except VSB P3VSB000003, Issue B updated the introductory information of the Accomplishment Instructions, revised the determination/evaluation of the aircraft/equipment history procedures, and clarified reporting procedures; and VSB P3VSB000003, Issue C, adds more in-depth inspection procedures.

AD Requirements

This AD requires within 30 days after the effective date of this AD, and thereafter at intervals not to exceed 6 months, repetitively inspecting an affected fire extinguisher and depending on the results, removing the fire extinguisher from service. For an affected fire extinguisher that is installed on any aircraft that has not been in operation for 30 or more consecutive days, or if it cannot be determined how long an aircraft has not been in operation, this AD requires those actions before further flight and thereafter at intervals not to exceed 6 months. This AD also prohibits installing, as a replacement part or as an original installation, an affected fire extinguisher on any aircraft unless it passes the required inspections.

Differences Between This AD and the EASA AD

If it cannot be determined how long an aircraft (with an affected fire extinguisher installed) has not been in operation, this AD requires inspecting each affected fire extinguisher before further flight, whereas EASA AD 2021–0185R1 does not.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because the initial inspection of the fire extinguisher must be accomplished within 30 days after the effective date of this AD. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0882; Project Identifier MCAI–2021–00929–Q'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects up to 2,850 fire extinguishers installed on aircraft of U.S. registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Inspecting an affected fire extinguisher would take about 0.25 work-hour for an estimated cost of $21 per fire extinguisher, and up to $59,850 for the U.S. fleet, per inspection cycle. Replacing an affected fire extinguisher would take about 0.25 work-hour and parts would cost about $1,200 for an estimated cost of $1,221 per fire extinguisher.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2021–22–07 Umlaut Engineering GmbH (previously P3 Engineering GmbH) HAFEX (Halon-free) Hand-Held Fire Extinguishers: Amendment 39–21780; Docket No. FAA–2021–0882; Project Identifier MCAI–2021–00929–Q.

(a) Effective Date

This airworthiness directive (AD) is effective November 18, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Umlaut Engineering GmbH (previously P3 Engineering GmbH) HAFEX (Halon-free) hand-held fire extinguisher (fire extinguisher) part numbers (P/Ns) P3APP003010A, P3APP003010B, and P3APP003010C. An affected fire extinguisher may be installed on, but not limited to, the following aircraft, certificated in any category:

Note 1 to the introductory text of paragraph (c): According to Umlaut service information, the fire extinguisher P/N is on the RFID label located on the lever of the fire extinguisher.

(1) Airbus SAS Model A318 series, A319 series, A320 series, A321 series, A330–200 series, A330–200 freighter series, A330–300 series, A330–800 series, A330–900 series, A340–200 series, A340–300 series, A340–500 series, A340–600 series, and A350–941, AS350–1041, A380–841, A380–842, and A380–861 airplanes;

(2) Airbus Helicopters Model AS332C, AS332C1, AS332L, AS332L1, AS332L2, AS–365N2, AS 365 N3, EC 155B, EC155B1, EC225LP, SA330J, SA–365C, SA–365C1, SA–365C2, SA–365N, SA–365N1, and SA–366G1 helicopters;

(3) Airbus Helicopters Deutschland GmbH (AHD) Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1 EC135T2, EC135T2+, EC135T3, MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, MBB–BK 117 C–1, MBB–BK 117 C–2, MBB–BK 117 D–2, and MBB–BK 117 D–3 helicopters;

Note 2 to paragraph (c)(3): Helicopters with an EC135P3H designation are Model EC135P3 helicopters; and helicopters with an MBB–BK 117C–2e designation are Model MBB–BK 117C–2 helicopters.

(4) ATR—GIE Avions de Transport Régional Model ATR42–200, ATR42–300, ATR42–320, ATR42–500, ATR72–101, ATR72–102, ATR72–201, ATR72–202, ATR72–211, ATR72–212, and ATR72–212A airplanes;

(5) Leonardo S.p.a. Model AB139, AB412, AB412 EP, AW139, AW169, and AW189 helicopters; and

(6) PZL Swidnik S.A. Model PZL W–3A helicopters.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 2622, Fire Bottle, Portable.

(e) Unsafe Condition

This AD defines the unsafe condition as an impaired fire extinguisher, which could prevent proper extinguishing of a fire in the cabin or cockpit, and result in subsequent damage to the aircraft and injury to the occupants.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Within 30 days after the effective date of this AD and thereafter at intervals not to exceed 6 months:

(i) Inspect each fire extinguisher identified in the introductory paragraph of paragraph (c) of this AD by following the Accomplishment Instructions, paragraph 3.2.C., steps 1. through 5. (but not steps 5.a. and b.), of Umlaut Vender Service Bulletin (VSB) Doc. No. P3VSB000003, Issue C, dated August 3, 2021 (P3VSB000003, Issue C).

(ii) If the safety pin does not touch the valve head (there is a gap), continue to inspect the fire extinguisher by following the Accomplishment Instructions, paragraph 3.2.C., steps 6. through 8. (but not steps 8.a. and b.), of P3VSB000003, Issue C.

(iii) If the lever moves back up into its previous position on its own (there is a gap), before further flight, remove the fire extinguisher from service.

(2) As of the effective date of this AD, for a fire extinguisher identified in the introductory text of paragraph (c) of this AD, installed on any aircraft that has not been in operation for 30 or more consecutive days, or if it cannot be determined how long an aircraft has not been in operation, before further flight, and thereafter at intervals not to exceed 6 months, accomplish the actions required by paragraphs (g)(1)(i) through (iii) of this AD. For purposes of this AD, an engine run-up does not count as aircraft operation.

(3) As of the effective date of this AD, do not install as a replacement part or as an

original installation a fire extinguisher identified in the introductory text of paragraph (c) of this AD on any aircraft, unless the actions required by paragraphs (g)(1)(i) through (iii) of this AD have been accomplished.

(h) Credit for Previous Actions

This paragraph provides credit for the initial instance of the actions required by paragraph (g)(1) of this AD if those actions were accomplished before the effective date of this AD using Umlaut VSB Doc. No. P3VSB000003, Issue A, dated May 10, 2021, or Umlaut VSB Doc. No. P3VSB000003, Issue B, dated July 14, 2021.

(i) Special Flight Permits

A special flight permit may be permitted provided that there are no passengers onboard.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Related Information

(1) For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

(2) Umlaut VSB Doc. No. P3VSB000003, Issue A, dated May 10, 2021, and Issue B, dated July 14, 2021, which are not incorporated by reference, contain additional information about the subject of this AD. This service information is available at the contact information specified in paragraphs (l)(3) and (4) of this AD.

(3) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD 2021–0185R1, dated August 11, 2021. You may view the EASA AD at *https://www.regulations.gov* in Docket No. FAA–2021–0882.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Umlaut Vendor Service Bulletin Doc. No. P3VSB000003, Issue C, dated August 3, 2021.

(ii) [Reserved]

(3) For Umlaut service information identified in this AD, contact Umlaut Engineering GmbH, Blohmstrasse 12, 21079 Hamburg, Germany; telephone: +49 (0) 551–19240; email: *hafex@umlaut.com;* or web: *https://www.umlaut.com/hafex.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on October 15, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–24008 Filed 10–29–21; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0372; Project Identifier MCAI–2020–01684–T; Amendment 39–21681; AD 2021–16–18]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–21–05, which applied to all Airbus SAS Model A330–200 Freighter, A330–200, A330–300, A330–900, A340–200, A340–300, A340–500, and A340–600 series airplanes. AD 2020–21–05 required repetitive inspections of certain fuel pumps for cavitation erosion, replacement if necessary, revision of the operator's minimum equipment list (MEL), and accomplishment of certain maintenance actions related to defueling and ground fuel transfer operations. This AD retains the requirements of AD 2020–21–05, revises certain compliance times, and expands the applicability; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by reports of a fuel pump showing cavitation erosion that exposed the fuel pump power supply wires, and by a determination that certain compliance times need to be revised and that additional airplanes are subject to the unsafe condition. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 8, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 8, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0372.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0372; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0283, dated December 17, 2020; corrected December 24, 2020 (EASA AD 2020–0283) (also referred to as the Mandatory Continuing Airworthiness

Information, or the MCAI), to correct an unsafe condition for all Airbus SAS A330–201, A330–202, A330–203, A330–223, A330–223F, A330–243, A330–243F, A330–301, A330–302, A330–303, A330–321, A330–322, A330–323, A330–341, A330–342, A330–343, A330–743L, A330–841, A330–941, A340–211, A340–212, A340–213, A340–311, A340–312, A340–313, A340–541, A340–542, A340–642 and A340–643 airplanes. Model A330–743L, A340–542, and A340–643 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–21–05, Amendment 39–21278 (85 FR 64963, October 14, 2020) (AD 2020–21–05). AD 2020–21–05 applied to all Airbus SAS Model A330–200 Freighter, A330–200, A330–300, A330–900, A340–200, A340–300, A340–500 and A340–600 series. The NPRM published in the **Federal Register** on May 21, 2020 (86 FR 27540). The NPRM was prompted by reports of a fuel pump showing cavitation erosion that exposed the fuel pump power supply wires, and by a determination that certain compliance times need to be revised and that additional airplanes are subject to the unsafe condition. The NPRM proposed to retain the requirements of AD 2020–21–05, revise certain compliance times, and expand the applicability, as specified in EASA AD 2020–0283.

The FAA is issuing this AD to address fuel pump erosion caused by cavitation. If this condition is not addressed, a pump running dry could result in a fuel tank explosion and consequent loss of the airplane. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comments received. P. Grande and The Air Line Pilots Association, International (ALPA) indicated support for the NPRM.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0283 describes procedures for repetitive inspections of all affected parts, replacement if necessary, updating of the applicable Master Minimum Equipment List (MMEL), and certain maintenance actions related to defueling and ground fuel transfer operations.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this AD affects 112 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2020–21–05	Up to 72 work-hours × $85 per hour = Up to $6,375.	$0	Up to $6,375	Up to $714,000.
New proposed actions	Up to 72 work-hours × $85 per hour = Up to $6,375.	0	Up to $6,375	Up to $714,000.
MEL revision	1 work-hour × $85 = $85	0	$85	$9,520.

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 126 work-hours × $85 per hour = Up to $10,710	Up to $173,680	Up to $184,390.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–21–05, Amendment 39–21278 (85 FR 64963, October 14, 2020); and

■ b. Adding the following new AD:

2021–16–18 Airbus SAS: Amendment 39–21681; Docket No. FAA–2021–0372; Project Identifier MCAI–2020–01684–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 8, 2021.

(b) Affected ADs

This AD replaces AD 2020–21–05, Amendment 39–21278 (85 FR 64963, October 14, 2020) (AD 2020–21–05).

(c) Applicability

This AD applies to all Airbus SAS airplanes, certificated in any category, and identified in paragraphs (c)(1) through (9) of this AD.

(1) Model A330–223F and –243F airplanes.

(2) Model A330–201, –202, –203, –223, and –243 airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Model A330–841 airplanes.

(5) Model A330–941 airplanes.

(6) Model A340–211, –212, and –213 airplanes.

(7) Model A340–311, –312, and –313 airplanes.

(8) Model A340–541 airplanes.

(9) Model A340–642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by reports of a fuel pump showing cavitation erosion that exposed the fuel pump power supply wires, and by a determination that certain compliance times need to be revised and that additional airplanes are subject to the unsafe condition. The FAA is issuing this AD to address fuel pump erosion caused by cavitation. If this condition is not addressed, a pump running dry could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0283, dated December 17, 2020; corrected December 24, 2020 (EASA AD 2020–0283).

(h) Exceptions to EASA AD 2020–0283

(1) Where EASA AD 2020–0283 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0283 does not apply to this AD.

(3) Where EASA AD 2020–0283 refers to the master minimum equipment list (MMEL), this AD refers to the operator's existing minimum equipment list (MEL).

(4) Where EASA AD 2020–0283 refers to ''13 December 2019 [the effective date of EASA AD 2019–0291 at original issue],'' this AD requires using ''November 18, 2020 (the effective date of AD 2020–21–05).''

(5) Where EASA AD 2020–0283 refers to ''17 November 2017 [the effective date of EASA AD 2017–0224],'' this AD requires using ''December 29, 2017 (the effective date of AD 2017–25–16, Amendment 39–19130 (82 FR 58718, December 14, 2017) (AD 2017–25–16)).''

(6) Where paragraphs (8), (9), and (10) of EASA AD 2020–0283 specify to ''inform all flight crews, and, thereafter, operate the aeroplane accordingly,'' this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0283 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (j)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0283, dated December 17, 2020; corrected December 24, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0283, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call

206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0372.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on July 30, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–23870 Filed 11–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1166; Project Identifier AD–2020–00906–T; Amendment 39–21737; AD 2021–19–19]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–9 airplanes. This AD was prompted by a report of missing sealant on the left and right wing leading edge outboard blowout door. This AD requires doing a fluid seal contact inspection and a detailed inspection for missing sealant on each blowout door and applying sealant if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 8, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 8, 2021.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1166.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1166; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Chris Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to The Boeing Company Model 737–9 airplanes having line numbers 6834, 6852, 6872, 6899, 6917, 6935, 7096, 7173, 7196, 7201, 7208, 7216, 7246, 7253, 7261, 7268, 7306, 7316, 7338, 7348, 7361, 7384, 7388, 7394, and 7428. The NPRM published in the **Federal Register** on January 21, 2021 (86 FR 6269). The NPRM was prompted by a report indicating that the application of sealant on the left wing and right wing leading edge outboard blowout door was missed during the airplane manufacturing process on some Model 737–9 airplanes. In the NPRM, the FAA proposed to require doing a fluid seal contact inspection and a detailed inspection for missing sealant on each blowout door and applying sealant if necessary. The FAA is issuing this AD to address the missing sealant, which is intended to act as a fuel barrier. In the presence of a substantial fuel leak from the wing box, the unintended drain path could allow fuel to come into contact with the engine. This condition, if not addressed, could lead to a large ground fire.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from The Air Line Pilots Association, International (ALPA), Boeing, and an individual, who all stated that they supported the NPRM without change. The FAA also received comments from United Airlines (UAL) and two individuals. The following discussion presents those comments and the FAA's response.

Request To Use Alternative Products

UAL suggested that the FAA work with Boeing on identifying acceptable alternatives to the developer specified in the service information. UAL stated that during initial accomplishment of the inspection there were difficulties sourcing the specified developer due to the requirement in Boeing Alert Requirements Bulletin 737–57A1350 RB to use the bulk material and not the aerosol spray. UAL stated it was ultimately able to procure the required bulk material.

The FAA disagrees with the request to change the AD to allow the use of alternative developers. Use of the bulk developer identified in Boeing Alert Requirements Bulletin 737–57A1350 RB, dated April 23, 2020, is needed for effective inspection. The aerosol spray form of the developer penetrates more aggressively than the bulk form, so it could cause existing sealants to swell. The use of bulk material avoids the potential for false readings of the gasket contact verification to be caused by sealant swelling.

The commenter also did not identify any alternative developers in either bulk or aerosol spray that would be an acceptable alternative to the developer identified in Boeing Alert Requirements Bulletin 737–57A1350 RB, dated April 23, 2020. However, operators may submit an alternative method of compliance (AMOC) request using the procedures specified in paragraph (i) of this AD; the request should include data that substantiates the alternative developer will ensure an effective inspection to determine if additional sealant is required. The FAA has not changed this AD as a result of this comment.

Request for Information on the Approval Process for Alternative Materials

Two individuals asked about the approval process for alternative suitable materials (sealant) and procedures. In addition, the individuals questioned the role of the Boeing Company Organization Designation Authorization (ODA) in the approval process.

In order to receive an AMOC to use an alternate sealant, the AMOC request would need to show that the alternate sealant meets or exceeds the performance or characteristics of the

current sealant that is identified in Boeing Alert Requirements Bulletin 737–57A1350 RB, dated April 23, 2020. While paragraph (i) of this AD indicates that AMOC authority may be delegated to the Boeing ODA, the ODA would still need to request that authority from the FAA and should include justification for why the authority should be granted. The FAA will then make the determination whether the ODA may grant AMOCs for this specific AD.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 737–57A1350 RB, dated April 23, 2020. The service information specifies procedures for doing a fluid seal contact inspection and a detailed inspection of the left and right wing leading edge outboard blowout door, at the inboard and outboard ends of the hinge, for missing sealant and applying sealant, if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 14 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	4 work-hours × $85 per hour = $340	$0	$340	$4,760

The FAA estimates the following costs to do any necessary repairs that would be required based on the results of the inspections. The FAA has no way of determining the number of aircraft that might need these on-condition actions.

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 4 work-hours × $85 per hour = Up to $340	Up to $100	Up to $440.

The FAA has included all known costs in this cost estimate. According to the manufacturer, however, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2021–19–19 The Boeing Company: Amendment 39–21737; Docket No. FAA–2020–1166; Project Identifier AD–2020–00906–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 8, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–9 airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 737–57A1350 RB, dated April 23, 2020.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by a report of missing sealant on the left and right wing leading edge outboard blowout door. The FAA is issuing this AD to address the missing sealant, which is intended to act as a fuel barrier. In the presence of a substantial fuel leak from the wing box, the unintended drain path could allow fuel to come into contact with the engine. This condition, if not addressed, could lead to a large ground fire.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

Except as specified by paragraph (h) of this AD, at the applicable times specified in the Compliance paragraph of Boeing Alert Requirements Bulletin 737–57A1350 RB, dated April 23, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–57A1350 RB, dated April 23, 2020.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–57A1350, dated April 23, 2020, which is referred to in Boeing Alert Requirements Bulletin 737–57A1350 RB, dated April 23, 2020.

(h) Exception to Service Information Specifications

Where Boeing Alert Requirements Bulletin 737–57A1350 RB, dated April 23, 2020, refers to ''the Original Issue date of Requirements Bulletin 737–57A1350 RB,'' this AD requires using ''the effective date of this AD.''

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

For more information about this AD, contact Chris Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Requirements Bulletin 737–57A1350 RB, dated April 23, 2020.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on September 10, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–23935 Filed 11–2–21; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1215

[Document Number NASA–21–058; Docket Number–NASA–2021–0005]

RIN 2700–AE62

Tracking and Data Relay Satellite System (TDRSS)

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule; nomenclature change.

SUMMARY: This direct final rule amends NASA's rule on Tracking and Data Relay Satellite System (TDRSS) to make nomenclature changes to update acronyms, network names, and office designations cited in the rule.

DATES: This direct final rule is effective on January 3, 2022. Comments due on or before December 3, 2021. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Comments must be identified with RINs 2700–AE62 and may be sent to NASA via the *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Please note that NASA will post all comments on the internet with changes, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Craig Salvas, 202–358–2330, *craig.salvas@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Direct Final Rule and Significant Adverse Comments

NASA has determined this rulemaking meets the criteria for a direct final rule because it makes non-substantive changes to make nomenclature changes to update acronyms, network names, and office designations cited in the rule. No opposition to the changes and no significant adverse comments are expected. However, if NASA receives significant adverse comments, it will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

II. Background

TDRSS is a network of U.S. communication satellites and ground stations used by NASA for space communications near the Earth. The system was designed to increase the time spacecraft were in communication with the ground and improve the amount of data that could be transferred. The primary goal of TDRSS is to provide improved tracking and data acquisition services capability to spacecraft in low-Earth orbit or to mobile terrestrial users such as aircraft or balloons. NASA is amending this rule to make nomenclature changes to update acronyms, network names, and office designations cited in §§ 1215.103, 1215.108, and 1215.109.

III. Regulatory Analysis

Executive Order 12866, Regulatory Planning and Review and Executive Order 13563, Improvement Regulation and Regulation Review

Executive Orders (E.O.) 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated as ''not significant'' under section 3(f) of E.O. 12866.

Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement does not apply if the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities'' (5 U.S.C. 603). This rule makes nomenclature changes and, therefore, does not have a significant economic impact on a substantial number of small entities.

Review Under the Paperwork Reduction Act

These nomenclature changes do not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Review Under E.O. 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), requires regulations to be reviewed for Federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, preparation of the Federal assessment is required to assist senior policy makers. The amendments will not have any substantial direct effects on state and local governments within the meaning of the E.O. Therefore, no Federalism assessment is required.

List of Subjects in 14 CFR Part 1215

Satellites.

Accordingly, under the authority of the National Aeronautics and Space Act, as amended, 51 U.S.C. 20113, NASA amends 14 CFR part 1215 as follows:

PART 1215—TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS)

■ 1. The authority citation for part 1215 continues to read as follows:

Authority: Sec. 203, Pub. L. 85–568, 72 Stat. 429, as amended; 42 U.S.C. 2473.

§§ 1215.103 1215.108, and 1215.109 [Amended]

■ 2. In the table below, for each section indicated in the left column, remove the acronym, network name, or office designation indicated in the middle column from wherever it appears in the section, and add the acronym, network name, or office designation indicated in the right column:

Section	Remove	Add
1215.103	Space Network	Near Space Network.
1215.103	SNUG	NSNUG.
1215.103	Networks Integration Management Office	Commercialization, Innovation, and Synergies.
1215.108	SNUG	NSNUG.
1215.108	NIMO	Near Space Network.
1215.108	Networks Integration Management Office	Commercialization, Innovation, and Synergies.
1215.109	NIMO	Near Space Network.

Nanette Smith,

Team Lead, NASA Directives and Regulations.

[FR Doc. 2021–23825 Filed 11–2–21; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket Nos. 090206140–91081–03, 120405260–4258–02, and 200706–0181; RTID 0648–XB557]

Revised Reporting Requirements Due to Catastrophic Conditions for Federal Seafood Dealers, Individual Fishing Quota Dealers, and Charter Vessels and Headboats in Portions of Louisiana

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; determination of catastrophic conditions.

SUMMARY: In accordance with the regulations implementing the individual fishing quota (IFQ), Federal dealer reporting, and Federal charter vessel and headboat (for-hire vessel) reporting programs specific to the reef fish fishery in the Gulf of Mexico (Gulf) and the coastal migratory pelagic (CMP) fisheries in the Gulf, the Regional Administrator (RA), Southeast Region, NMFS, has determined that the catastrophic conditions caused by Hurricane Ida in the Gulf still exists for Jefferson parish in Louisiana. This temporary rule authorizes any dealer in the affected area described in this temporary rule who does not have access to electronic reporting to delay reporting of trip tickets to NMFS and authorizes IFQ participants within the affected area to use paper-based forms, if necessary, for basic required administrative functions. This rule also authorizes any Federal for-hire owner or operator in the affected area described in this temporary rule who does not have access to electronic reporting to delay reporting of logbook records to NMFS. This temporary rule is intended to facilitate continuation of IFQ, dealer, and Federal for-hire reporting operations during the period of catastrophic conditions.

DATES: The RA is authorizing Federal dealers, IFQ participants, and Federal for-hire operators in the affected area to use revised reporting methods from November 1, 2021, through November 30, 2021.

FOR FURTHER INFORMATION CONTACT: Britni Lavine, IFQ Customer Service, telephone: 866–425–7627, fax: 727–824–5308, email: *nmfs.ser.catchshare@noaa.gov.* For Federal dealer reporting, Fisheries Monitoring Branch, telephone: 305–361–4581. For Federal for-hire reporting, Southeast For-Hire Integrated Electronic Reporting program, telephone: 833–707–1632.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf is managed under the Fishery Management Plan

(FMP) for Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP), prepared by the Gulf of Mexico Fishery Management Council (Gulf Council). The CMP fishery is managed under the FMP for CMP Resources in the Gulf of Mexico and Atlantic Region (CMP FMP), prepared by the Gulf Council and South Atlantic Fishery Management Council. Both FMPs are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Amendment 26 to the Reef Fish FMP established an IFQ program for the commercial red snapper component of the Gulf reef fish fishery (71 FR 67447; November 22, 2006). Amendment 29 to the Reef Fish FMP established an IFQ program for the commercial grouper and tilefish components of the Gulf reef fish fishery (74 FR 44732; August 31, 2009). Regulations implementing these IFQ programs (50 CFR 622.21 and 622.22) require that IFQ participants have access to a computer and the internet and that they conduct administrative functions associated with the IFQ program, *e.g.,* landing transactions, online. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may authorize IFQ participants to use paper-based forms to complete administrative functions for the duration of the catastrophic conditions. The RA must determine that catastrophic conditions exist, specify the duration of the catastrophic conditions, and specify which participants or geographic areas are affected.

The Generic Dealer Amendment established Federal dealer reporting requirements for federally permitted dealers in the Gulf and South Atlantic (79 FR 19490; April 9, 2014). The Gulf For-Hire Reporting Amendment implemented reporting requirements for Gulf reef fish and CMP owners and operators of for-hire vessels (85 FR 44005; July 21, 2020). Regulations implementing these dealer reporting requirements (50 CFR 622.5) and for-hire vessel reporting requirements (50 CFR 622.26 and 622.374) state that dealers must submit electronic reports and that Gulf reef fish and CMP vessels with the applicable charter vessel/headboat permit must submit electronic fishing reports of all fish harvested and discarded. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may waive or modify the reporting time requirements for dealers and for-hire vessels for the duration of the catastrophic conditions.

Hurricane Ida made landfall in the United States near Port Fourchon, Louisiana, in the Gulf as a Category 4 hurricane on August 29, 2021. Strong winds and flooding from this hurricane impacted communities throughout coastal Louisiana. This resulted in power outages and damage to homes, businesses, and infrastructure. As a result, the RA determined that catastrophic conditions existed in the Gulf for the Louisiana parishes of Saint Tammany, Orleans, Saint Bernard, Plaquemines, Jefferson, Saint Charles, Lafourche, Terrebonne, Saint Mary, Iberia, Vermilion, and Cameron.

The RA previously authorized Federal dealers and Federal for-hire operators in these affected areas to delay reporting of trip tickets and for-hire logbooks to NMFS, and IFQ participants in this affected area to use paper-based forms, from September 2, 2021, through October 8, 2021 (86 FR 50287; September 8, 2021). The RA subsequently extended that initial authorization through October 31, 2021, through a temporary rule because catastrophic conditions continued to exist in certain Louisiana parishes (86 FR 54657; October 4, 2021). As stated in both temporary rules, NMFS continues to monitor the conditions in this area.

NMFS has received updated reports of continued damage to the infrastructure within the communities of Grand Isle and Lafitte within Jefferson parish, in coastal Louisiana, such as power outages and interruption of water service. Therefore, to provide Federal dealers and Federal for-hire operators in the affected area the continued flexibility to delay reporting of trip tickets and for-hire logbooks to NMFS, and allow IFQ participants in the affected area to use paper-based forms, NMFS extends the current catastrophic conditions determination through November 30, 2021 for Jefferson parish, Louisiana. Through October 31, 2021, the previous catastrophic conditions determination remains in effect for the Louisiana parishes of Saint Tammany, Orleans, Saint Bernard, Plaquemines, Saint Charles, Lafourche, Terrebonne, Saint Mary, Iberia, Vermilion, and Cameron.

Dealers may delay electronic reporting of trip tickets to NMFS during catastrophic conditions. Dealers are to report all landings to NMFS as soon as possible. Assistance for Federal dealers in affected area is available from the NMFS Fisheries Monitoring Branch at 1–305–361–4581. NMFS previously provided IFQ dealers with the necessary paper forms and instructions for submission in the event of catastrophic conditions. Paper forms are also available from the RA upon request. The electronic systems for submitting information to NMFS will continue to be available to all dealers, and dealers in the affected area are encouraged to continue using these systems, if accessible.

Federal for-hire operators may delay electronic reporting of logbooks to NMFS during catastrophic conditions. Federal for-hire operators are to report all landings to NMFS as soon as possible. Assistance for Federal for-hire operators in affected area is available from the NMFS Southeast For-Hire Integrated Electronic Reporting Program at 1–833–707–1632. The electronic systems for submitting information to NMFS will continue to be available to all Federal for-hire operators, and for-hire operators are encouraged to continue using the these systems, if accessible.

The administrative program functions available to IFQ participants in the area affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via the NMFS Catch Share Support line, 1–866–425–7627 Monday through Friday, between 8 a.m. and 4:30 p.m., Eastern Time.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is consistent with the regulations in 50 CFR 622.5(c)(1)(iii), 622.21(a)(3)(iii), and 622.22(a)(3)(iii), which were issued pursuant to section 304(b) of the Magnuson-Stevens Act, and are exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the final rules implementing the Gulf IFQ programs, the Gulf and South Atlantic Federal dealer reporting requirements, and Gulf for-hire vessel reporting requirements have already been subject to notice and public comment. These rules authorize the RA to determine when catastrophic conditions exist, and which participants or geographic areas are affected by catastrophic conditions. The final rules also authorize the RA to provide timely notice to affected participants via

publication of notification in the **Federal Register**, NOAA Weather Radio, Fishery Bulletins, and other appropriate means. All that remains is to notify the public that catastrophic conditions continue to exist, that IFQ participants may use paper forms, and that Federal dealers and Gulf for-hire permit holders may submit delayed reports. Such procedures are also contrary to the public interest because of the need to immediately implement this action because affected dealers continue to receive these species in the affected area and need a means of completing their landing transactions. With the continued power outages and damages to infrastructure that have occurred in the affected area due to Hurricane Ida, numerous businesses are unable to complete landings transactions, fishing reports, and dealer reports electronically. In order to continue with their businesses, IFQ participants need to be aware they can report using the paper forms, and Federal dealers and Gulf for-permit holders need to be aware that they can delay reporting.

For the aforementioned reasons, there is good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 27, 2021.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–23820 Filed 11–2–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 211025–0215]

RIN 0648–BK31

Fisheries of the Exclusive Economic Zone Off Alaska; Cook Inlet Salmon; Amendment 14

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 14 to the Fishery Management Plan (FMP) for the Salmon Fisheries in the Exclusive Economic Zone (EEZ) Off Alaska (Salmon FMP). Amendment 14 will incorporate the Cook Inlet EEZ Subarea into the Salmon FMP's West Area, thereby bringing the Cook Inlet EEZ Subarea and the commercial salmon fisheries that occur within it under Federal management by the North Pacific Fishery Management Council (Council) and NMFS. This action will apply the prohibition on commercial salmon fishing that is currently established in the West Area to the newly added Cook Inlet EEZ Subarea. This final rule is necessary to comply with a U.S. Court of Appeals for the Ninth Circuit ruling and to ensure the Salmon FMP is consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This final rule is intended to promote the goals and objectives of the Magnuson-Stevens Act, the Salmon FMP, and other applicable laws.

DATES: Effective December 3, 2021.

ADDRESSES: Electronic copies of the Environmental Assessment and the Regulatory Impact Review (collectively referred to as the ''Analysis'') and the Finding of No Significant Impact prepared for this final rule may be obtained from *https://www.regulations.gov* or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska*.

FOR FURTHER INFORMATION CONTACT: Doug Duncan, 907–586–7228 or *doug.duncan@noaa.gov*.

SUPPLEMENTARY INFORMATION: This final rule implements Amendment 14 to the Salmon FMP. NMFS published the Notice of Availability (NOA) for Amendment 14 in the **Federal Register** on May 18, 2021 (86 FR 26888), with public comments invited through July 19, 2021. NMFS published the proposed rule to implement Amendment 14 in the **Federal Register** on June 4, 2021 (86 FR 29977). Comments submitted on the NOA and the proposed rule for Amendment 14 were considered jointly. The Secretary of Commerce approved Amendment 14 on August 12, 2021, after considering public comment and determining that Amendment 14 is consistent with the Salmon FMP, the Magnuson-Stevens Act, and other applicable laws. No substantive changes have been made from the proposed rule in this final rule.

Background

The following provides a brief summary of the background for Amendment 14. Additional information is provided in the preamble of the proposed rule and the Analysis.

The Council's Salmon FMP manages the Pacific salmon fisheries in the EEZ from 3 nautical miles to 200 nautical miles off Alaska. The Council developed the Salmon FMP under the Magnuson-Stevens Act, and it first became effective in 1979. The Council has divided the Salmon FMP's coverage into the West Area and the East Area, with the boundary between the two areas at Cape Suckling, at 143°53.6′ W longitude. The Salmon FMP authorizes commercial salmon fishing in the East Area, and prohibits commercial salmon fishing in the West Area. Through Amendment 12 (December 21, 2012, 77 FR 75570), three small areas in the EEZ—including the Cook Inlet EEZ—where commercial salmon fishing with nets was originally authorized by the International Convention for the High Seas Fisheries of the North Pacific Ocean, as implemented by the North Pacific Fisheries Act of 1954, were excluded from the Salmon FMP and therefore not subject to the West Area prohibition on commercial fishing. Amendment 12's removal of these three areas in the EEZ from the Salmon FMP's West Area allowed the State of Alaska (State) to manage these areas independently and outside of an FMP.

Cook Inlet commercial salmon fishermen and seafood processors challenged Amendment 12 and its implementing regulations, including removal of the Cook Inlet EEZ from the Salmon FMP. *United Cook Inlet Drift Ass'n* v. *NMFS,* No. 3:13–cv–00104–TMB, 2014 WL 10988279 (D. Alaska 2014). On appeal, the Ninth Circuit held that section 302(h)(1) of the Magnuson-Stevens Act (16 U.S.C. 1852(h)(1)) requires a Council to prepare and submit FMPs for each fishery under its authority that requires conservation and management. *United Cook Inlet Drift Ass'n* v. *NMFS,* 837 F.3d 1055, 1065 (9th Cir. 2016). Because NMFS agreed that the Cook Inlet EEZ salmon fishery needs conservation and management by some entity, the Ninth Circuit ruled that the Magnuson-Stevens Act requires that fishery be included in the Salmon FMP.

Through its public processes, the Council spent significant time from 2017 to 2020 developing and evaluating management alternatives to comply with the Ninth Circuit's ruling. The Council considered four alternatives, which are described in Section 2 of the Analysis: Alternative 1, status quo management; Alternative 2, Federal management of the Cook Inlet EEZ with specific management measures delegated to the State; Alternative 3, independent Federal management of the Cook Inlet EEZ with specific management measures for the commercial salmon fishery sector in the Cook Inlet EEZ; and Alternative 4, independent Federal management of the Cook Inlet EEZ with a closure of the

Cook Inlet EEZ to commercial salmon fishing. Alternative 1 would have been inconsistent with the Ninth Circuit ruling, and at the December 2020 Council meeting, the State announced it would not accept a delegation of management authority. Therefore, Alternatives 3 and 4 were the only viable management alternatives for the Council by the time it took final action. After this extensive public review and development process, the Council recommended Alternative 4 as Amendment 14 to the Salmon FMP in December 2020. In accordance with section 304(a) and (b) of the Magnuson-Stevens Act, NMFS approved Amendment 14 and implements it with this final rule.

Amendment 14 and This Final Rule

Amendment 14 incorporates the Cook Inlet EEZ Subarea (defined as the EEZ waters of Cook Inlet north of a line at 59°46.15′ N) into the Salmon FMP's West Area, thereby bringing the Cook Inlet EEZ Subarea and the commercial salmon fishery that occurs within it under Federal management by the Council and NMFS. Amendment 14 applies the prohibition on commercial salmon fishing that is currently established in the West Area to the newly added Cook Inlet EEZ Subarea. Most other existing FMP provisions that apply to the West Area also apply to the Cook Inlet EEZ Subarea. This action specifically addresses management of the Cook Inlet EEZ Subarea and the commercial salmon fishery that occurs there. With Amendment 14 and this final rule, the Council and NMFS are amending the Salmon FMP and Federal regulations to comply with the Ninth Circuit's decision, the Magnuson-Stevens Act, and other applicable law.

This action (1) takes the most precautionary approach to minimizing the potential for overfishing, (2) provides the greatest opportunity for maximum harvest from the Cook Inlet salmon fishery, (3) avoids creating new management uncertainty, (4) minimizes regulatory burden to fishery participants, (5) maximizes management efficiency for the Cook Inlet salmon fishery and (6) avoids the introduction of an additional management jurisdiction into the already complex and interdependent network of Cook Inlet salmon fishery sectors.

This final rule implements Amendment 14 by removing the regulation that excludes the Cook Inlet EEZ Subarea from the directly adjacent West Area. This final rule revises the definition of ''Salmon Management Area'' at 50 CFR 679.2 to redefine the Cook Inlet Area as the Cook Inlet EEZ Subarea and incorporate it into the West Area. This final rule also revises Figure 23 to 50 CFR part 679 consistent with the revised definition of the Salmon Management Area at § 679.2. As part of the West Area, the Cook Inlet EEZ Subarea will be subject to the prohibition on commercial fishing for salmon at § 679.7(h)(2).

This final rule does not modify existing State management measures, nor does it preclude the State from adopting additional management measures that could provide additional harvest opportunities for the Cook Inlet salmon fishery, including commercial drift gillnet fishermen, within State waters.

As this action prohibits commercial salmon fishing in the Cook Inlet EEZ Subarea consistent with existing Federal management in adjacent West Area waters, no additional Federal fishery management measures are required. The West Area prohibition on commercial salmon fishing will continue to be enforced by State and Federal authorities under the revised boundaries resulting from this action. For additional information about Amendment 14 and implementing regulations, see the preamble to the proposed rule (June 4, 2021, 86 FR 29977).

Comments and Responses

NMFS received 56 comment submissions on the NOA for Amendment 14 and the proposed rule. NMFS has summarized and responded to 67 unique and relevant comments below. Several comment submissions were duplicates or addressed topics outside the scope of the proposed rule. The comments were from individuals, environmental groups, State government personnel, local government personnel, and industry participants. Comments are organized by topic into the following categories: Comments in support of this action, General comments, National Standards 1 and 3, National Standard 8, Economic impacts, Consistency with other National Standards, Impacts on marine mammals, Comments on the development of Amendment 14, Comments on State salmon management, and Comments on legal issues.

Comments in Support of This Action

Comment 1: This action will protect valuable Cook Inlet salmon runs for future generations of users from all states and is supported by the available scientific evidence. This action is necessary to preserve and protect this vital resource.

Response: NMFS acknowledges this comment.

Comment 2: This action will support sustainable management of all salmon stocks in Cook Inlet, provide harvest opportunities to a wide variety of Cook Inlet salmon fishery sectors, and reduce the likelihood of future fishery disaster declarations.

Response: NMFS acknowledges this comment.

Comment 3: The State has appropriately managed the Cook Inlet salmon fishery since before statehood and is better situated to continue in-season management of the Cook Inlet salmon fishery than the slow and cumbersome Federal management process.

Response: NMFS acknowledges this comment.

Comment 4: The Alaska Department of Fish and Game (ADFG) supports implementation of Amendment 14 as outlined in the proposed rule. The proposed rule and Analysis use the best scientific information available and provide a sufficient basis for NMFS to approve and implement Amendment 14.

Response: NMFS acknowledges this comment.

Comment 5: ADFG agrees with the conclusions included in the Analysis that implementation of Amendment 14 to prohibit commercial salmon fishing in the Cook Inlet EEZ is not expected to result in a significant change in the conditions of Cook Inlet salmon stocks and other living marine resources and their habitats.

Response: NMFS acknowledges this comment.

General Comments

Comment 6: The impacts of Amendment 14 are uncertain at best and disastrous at worst because it would severely complicate effective sustainable fishery management for biologists by limiting the entire drift gillnet fleet into a three nautical mile State waters corridor to harvest the returning fish.

Response: As described in Section 4.7.1.4 of the Analysis, NMFS acknowledges that this action would decrease the area available for the drift gillnet fleet to harvest Cook Inlet salmon relative to the status quo. Section 4.5.2 of the Analysis notes that during peak commercial fishing times the fishery can already be limited to State waters by the State for conservation and management purposes.

NMFS disagrees that Amendment 14 would complicate effective and sustainable management of the Cook Inlet salmon fishery. Closing the EEZ to commercial salmon fishing avoids

creating the significant new management uncertainty associated with Alternative 3, the only other viable management alternative. Additionally, during Council deliberations and in public comment submitted on Amendment 14, the State concurred that, of the viable alternatives, Amendment 14 is most likely to achieve the salmon conservation and management objectives established by the Council and the specific requirements of the Magnuson-Stevens Act to prevent overfishing and achieve optimum yield on a continuing basis for the Upper Cook Inlet (UCI) salmon fishery. The State also agreed that Cook Inlet salmon stocks could be harvested successfully and sustainably within State waters and did not identify significant management concerns associated with this action.

As detailed in the preamble to the proposed rule, NMFS has determined that Amendment 14 best optimizes conservation and management of Cook Inlet salmon stocks when considering the viable management alternatives.

Comment 7: Salmon management under the Salmon FMP should include cooperation between the Council and ADFG and be fair to benefit all Cook Inlet salmon fishery sectors. Amendment 14 is not fair and creates an imbalance within the fishery.

Response: NMFS acknowledges the importance and benefits of cooperation from all fishery sectors when developing an FMP. This final action was developed through the Council process, which provided substantial opportunities for public input. Sections 1.3 and 2 of the Analysis and the preamble of the proposed rule describe the range of issues that the Council considered in selecting this final action, including Federal jurisdiction that is limited to Federal waters.

Amendment 14 limits user group conflicts by prohibiting commercial salmon fishing in the Cook Inlet EEZ subarea. This allows competing interests and conflicts among all Cook Inlet salmon fishery sectors to be balanced and resolved by the government entity (the State) with management authority to regulate harvest by all Cook Inlet salmon fishery sectors. Sections 4.5 and 4.6 of the Analysis describe the multiple salmon fishery sectors managed by the State within Cook Inlet. Federal fishery management under the FMP would apply only in the EEZ, where the drift gillnet fishery is the only commercial fishery sector and the predominant user group.

Independent Federal management of a separate commercial fishery sector in the Cook Inlet EEZ Subarea, an option considered and rejected by the Council under Alternative 3, would have changed the forum for some fishery sector conflicts in Cook Inlet from the Alaska Board of Fisheries to the Council. However, this management structure would not, in and of itself, lessen the conflicts inherent in the difficult task of allocating salmon, a finite resource, to all Cook Inlet salmon fishery sectors—subsistence, recreational, and different commercial gear types—that harvest Cook Inlet salmon from EEZ waters through to the headwaters of Cook Inlet streams and rivers. Under any of the action alternatives, NMFS would not manage the harvest of salmon within State waters, but would have to account for removals within State waters by all Cook Inlet salmon fishery sectors and the attendant uncertainty when determining the appropriate level of harvest in Federal waters.

Comment 8: Amendment 14 is contrary to and undermines Alaska's long-standing tradition and standard of excellent fisheries management.

Response: NMFS agrees that the State of Alaska has a long-standing tradition and standard of excellent salmon fisheries management but disagrees that Amendment 14 is contrary to or undermines the State's management of the Cook Inlet salmon fishery. The Council worked for more than 3 years on the development of Amendment 14 with input from stakeholders, NMFS, and ADFG. As detailed in the preamble to the proposed rule, this action maximizes utilization of Cook Inlet salmon resources while minimizing the potential for overfishing. Further, this action is consistent with longstanding Federal management of the West Area that has facilitated successful State management of Alaska's salmon resources throughout the region.

Comment 9: Multiple commenters supported delegating management authority to the State in the Federal waters of Cook Inlet and opposed the adoption of Amendment 14 to the Salmon FMP.

Response: The State announced it would not accept a delegation of management authority at the Council's December 2020 meeting. NMFS cannot require or compel a state to accept a delegation of management authority for a fishery in Federal waters.

Comment 10: Several commenters, including the State (ADFG), indicated they would prefer the existing management structure analyzed by the Council as Alternative 1, status quo.

Response: As a result of the Ninth Circuit decision, the Council and NMFS cannot defer management of the Cook Inlet EEZ to the State by excluding the area from FMP management given that the commercial salmon fishery within the Cook Inlet EEZ requires conservation and management. Because the Cook Inlet EEZ must be included in the FMP, the State cannot continue to manage the Cook Inlet EEZ without explicitly being delegated management authority in the FMP. Therefore, Alternative 1 was not a viable option. Instead, the FMP must be amended to incorporate the Cook Inlet EEZ Subarea into the FMP, as described in Section 2 of the Analysis.

Comment 11: Cooperative Federal and State management takes place in other fisheries in Alaska, including other salmon fisheries in the East Area. Why can the Federal government work together with the State in all other regions except Cook Inlet?

Response: NMFS worked with ADFG throughout the development of Amendment 14. Cooperative Federal and State management is only possible to the extent the State is willing to accept a delegation of management authority, which the State has accepted for salmon fisheries in the East Area. As stated in the response to *Comment 9,* NMFS cannot require a state to accept a delegation of management authority. Prior to the December 2020 Council meeting, the State had not adopted a position on its willingness to accept a delegation of management authority for the Cook Inlet EEZ. The remarks that were made on the record by ADFG's voting representative at the December 2020 Council meeting provide the State's rationale for refusing a delegation of management authority.

Comment 12: Amendment 14 would increase the risk to public safety by moving hundreds of fishermen (each trailing 900–1,200 foot-long gillnets) into the already congested area within State waters.

Response: NMFS acknowledges this comment. As described in Section 4.7.4.2 of the Analysis, fishery congestion may increase and, together with the potential for decreased revenues, could have an indirect impact to vessel safety. That said, this action does move the fleet closer to other vessels for mutual assistance as well as shore-based emergency resources. Combined with ADFG's and the Alaska Board of Fisheries' consideration of safety in their management decisions, Amendment 14 is not expected to have a significant impact on safety. Section 4.5.2 of the Analysis also notes that during peak times, the fishery can already be limited to State waters and no significant safety issues have developed. For these reasons, the

Council and NMFS determined that Amendment 14 is consistent with National Standard 10.

Comment 13: Closing an area to commercial fishing that has been heavily utilized for nearly a hundred years is not a management plan.

Response: NMFS disagrees. Area closures, including those specific to a fishery or gear type, are commonly used by the Council and NMFS to achieve conservation and management objectives for FMPs.

Comment 14: People who have spent their lifetime honing their craft and knowledge will see it taken away by the Council process and its recommendation to close the EEZ. Do not approve this action.

Response: NMFS acknowledges this comment, but notes that there is opportunity for the drift gillnet fishery to continue within State waters where it currently harvests over half of its average annual catch. Further, of the viable management alternatives, the Council determined and NMFS agrees that closing the Cook Inlet EEZ to commercial salmon fishing is the management approach most likely to avoid uncertainty and maximize harvest of Cook Inlet salmon stocks while preventing overfishing.

Comment 15: Appendix 12 provides the State's answers on the impacts of its own proposal to close fishing in the EEZ. The State calls the EEZ portion of the Cook Inlet a small area. That is not accurate. The area is about 1,000 square miles and comprises about one-half of the Central District.

Response: NMFS interpreted ''small'' as relative to the entirety of Cook Inlet. NMFS acknowledges that the Cook Inlet EEZ is a substantial portion of the Cook Inlet Central District where the UCI drift gillnet fleet may operate, as described in Section 4.5.2.1 of the Analysis.

National Standards 1 and 3

Comment 16: Amendment 14 is inconsistent with the Magnuson-Stevens Act, including National Standard 3, because it does not apply to the entire salmon fishery, including State waters management practices (*e.g.,* escapement goals, management plans, allocations, and in season management decisions). Commercial fishers want a management plan that covers salmon stocks throughout their range to ensure management is consistent with the National Standards. This is not a request for preemption. NMFS' own regulations require: ''The geographic scope of the fishery, for planning purposes, should cover the entire range of the stocks(s) of fish, and not be overly constrained by political boundaries.'' 50 CFR 600.320(b). This action abdicates all Federal responsibility to the State to manage the fishery in State waters however it deems fit.

Response: NMFS determined that Amendment 14 is consistent with the Magnuson-Stevens Act, including National Standard 3. National Standard 3 states that, to the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination (16 U.S.C. 1851(a)(3)). National Standard 3 guidelines explain how to structure appropriate management units for stocks and stock complexes (§ 600.320). The Guidelines state that the purpose of the Standard is to induce a comprehensive approach to fishery management (§ 600.320(b)). The guidelines define ''management unit'' as ''a fishery or that portion of a fishery identified in an FMP as relevant to the FMP's management objectives,'' and state that the choice of a management unit ''depends on the focus of the FMP's objectives, and may be organized around biological, geographic, economic, technical, social, or ecological perspectives'' (§ 600.320(d)).

The Council and NMFS determined that prohibiting commercial fishing in the Cook Inlet EEZ subarea would best enable Cook Inlet salmon to be managed as a unit throughout their range. The best information about salmon abundance is available as salmon move into freshwaters and the number of spawning salmon can be counted. This is referred to as escapement, and provides State managers the information they need to increase or decrease fishing effort in-season based on whether enough salmon are making it into freshwater to reproduce sustainably. Amendment 14 recognizes that management of salmon is best conducted through monitoring escapement—the point in the species' life history that is most appropriate for assessing stock status—and that escapement happens in the river systems, not in the EEZ waters. Under Amendment 14, the State manages for all sources of fishing mortality. The State monitors actual run strength and escapement during the fishery, and utilizes in-season management measures that are closely coordinated across all Cook Inlet fishery sectors, including fishery closures, to ensure that escapement goals are met. Therefore, Amendment 14 best achieves the objectives of National Standard 3 and avoids reductions in catch that are expected to account for the uncertainty and preseason management requirements created by the only other viable management alternative (Alternative 3).

Amendment 14 does consider the entire Cook Inlet salmon fishery and does apply to the entire Cook Inlet salmon fishery that occurs within the EEZ. Federal management must consider what occurs within State waters for planning purposes, in order to adequately determine what level of fishing may sustainably occur within the EEZ under the FMP consistent with the Magnuson-Stevens Act. However, the Magnuson-Stevens Act limits the jurisdiction of the Council and NMFS to Federal waters (*i.e.,* the EEZ) for the implementation of management measures. As explained in the preamble to the proposed rule, Amendment 14 considers all commercial, recreational, and subsistence fishing that constitute the Cook Inlet salmon fishery. However, in order for a Federal FMP to govern fisheries occurring within State marine waters, the conditions for preemption under Magnuson-Stevens Act section 306(b) (16 U.S.C. 1856(b)), listed below, must both be met.

1. The fishery must occur predominantly within the EEZ.

2. The results of the State's action or inaction must substantially and adversely affect the carrying out of the FMP.

As indicated by data presented in Sections 3.1, 4.5, and 4.6 of the Analysis, the conditions for preemption are not met in Cook Inlet. Under no circumstances does NMFS or the Council have authority to manage fishing within State internal waters.

Comment 17: NMFS incorrectly assumes that Alternative 3 requires Federal management to be responsive to State management to support Alternative 4. If NMFS sets maximum sustainable yield (MSY), optimum yield (OY), and annual catch limits (ACLs) for Cook Inlet salmon stocks, then the State must modify their management to comply with those limitations. If there is more harvest in EEZ waters then State waters harvest must be reduced to achieve OY. If the State is already managing the fishery in a manner consistent with the Magnuson-Stevens Act, then the dual management by the Council and the State should be seamless. Relatedly, some commenters suggested that NMFS implementing an OY that included State waters harvest is inconsistent with NMFS's stated inability to implement management measures within State waters.

Response: NMFS acknowledges that differences between Alternatives 3 and 4 were important in its consideration of Amendment 14. The State was not willing to accept a delegation of

management authority so Alternative 2 could not be implemented. Consistent with the Ninth Circuit ruling, the status quo was also not a viable option. This left the Council with a decision between Alternatives 3 and 4.

NMFS does not agree that Federal management supersedes State management of a State fishery absent preemption, or that State management of a State fishery must be responsive to Federal management. NMFS has an obligation to prevent overfishing in fisheries under Federal jurisdiction, and must account for all sources of mortality when determining the allowable harvest for Federal waters, consistent with the Magnuson-Stevens Act and National Standard 1 (50 CFR 600.310(e)(2)(ii)). NMFS must consider a fishery that occurs within State waters; however, NMFS cannot modify fishery management within State waters. Therefore, NMFS will take action in the fisheries under its jurisdiction to prevent overfishing. NMFS has maintained this position throughout the development of Amendment 14. In other instances where a fishery occurs in both state and Federal waters, Federal management of the Federal portion of the fishery is responsive to state management of the portion of the fishery that occurs in state waters. Examples of this are Pacific cod fisheries in the Gulf of Alaska and Aleutian Islands. In specifying the Federal Pacific cod total allowable catch, NMFS must account for the State harvests so that total catch in state and Federal waters does not result in overfishing.

Management in Federal waters must adhere to the Magnuson-Stevens Act. Amendment 14 closes the EEZ waters of Cook Inlet, consistent with the Magnuson-Stevens Act and other applicable law. The State is not bound by the Magnuson-Stevens Act for its management within State waters, but this does not equate to State management being inconsistent with the Magnuson-Stevens Act. Under NMFS's National Standard 1 Guidelines, MSY, and OY can be specified at the fishery level (50 CFR 600.310(e)). In Cook Inlet, the salmon fishery has historically occurred in both State and Federal waters, and therefore specifying MSY and OY at the fishery level requires NMFS to consider fishing activity in State waters. However, though NMFS must consider fishing activity in State waters when establishing reference points, it cannot manage fishing activity in State waters. Thus, while MSY and OY account for State-water harvest, NMFS is only specifying an ACL for the Cook Inlet EEZ commercial salmon fishery. This is consistent with the National Standard 1 Guidelines, which instruct NMFS to establish a Federal ACL for State-Federal Fisheries like the Cook Inlet salmon fishery, because ''Federal management is limited to the portion of the fishery under Federal authority.'' 50 CFR 600.310(f)(4)(iii).

Absent the conditions for preemption, which are described more thoroughly in the response to *Comment 16,* NMFS does not have jurisdiction over State marine waters. As salmon stocks can be fully utilized in State waters consistent with appropriate conservation and management, additional harvest in EEZ waters is not necessary to achieve OY, and introducing an additional, independent management jurisdiction in the EEZ could increase the risk of overfishing as explained in the preamble to the proposed rule and the response to *Comment 33.*

Comment 18: The State's process for setting escapement goals does not comply with the Magnuson-Stevens Act, which requires the Council to set ACLs for each fishery based on peer-reviewed Scientific and Statistical Committee (SSC) recommendations. State management plans that affect harvest levels are based on flawed escapement goals set by Alaska Board of Fisheries.

Response: This action establishes an ACL of zero for the commercial salmon fishery in the Cook Inlet EEZ Subarea, consistent with Magnuson-Stevens Act requirements. Under the Magnuson-Stevens Act, NMFS must consider, but cannot modify, fishery management within State waters. The State is not bound by the Magnuson-Stevens Act within State waters. Additional description about the relationship between State and Federal management measures is provided in the response to *Comment 17.*

Further, the SSC found that State management of Cook Inlet salmon stocks relied on the best scientific information available and the resulting harvest levels were consistent with harvest levels that could be expected under Federal management. This information, along with additional consideration of the State's escapement-based management system, is provided in Section 3.1 of the Analysis. NMFS also determined there is not better scientific information available to manage Cook Inlet salmon stocks than the information reviewed in the Analysis.

Comment 19: The preamble to the proposed rule states that the Council and NMFS determined that the proposed OY would be fully achieved by the Cook Inlet salmon fishery within State waters ''because compensatory fishery effort among various sectors in State waters is expected to make up for closing the Cook Inlet EEZ to commercial salmon fishing.'' There is no evidence that the Council made any such determination, and that determination is not supportable. National Standard 1 requires that an FMP achieve OY, which is defined both in terms of the greatest overall benefit to the Nation as well as achieving the MSY. The State has made no attempt to achieve OY on most stocks of salmon.

Response: NMFS determined that Amendment 14 will achieve OY. The Analysis before the Council and NMFS, including the retrospective review of State management against proposed Federal management, demonstrated that managing salmon within the escapement goals established by the State prevented overfishing, allowed harvest by all Cook Inlet salmon fishery sectors, and that no management alternatives under consideration were expected to increase harvests of Cook Inlet salmon stocks. Therefore, of the viable management alternatives, Amendment 14 produces the greatest net benefit to the Nation by allowing harvest of Cook Inlet salmon by all fishery sectors to the extent possible while still protecting weak stocks from overfishing.

The Magnuson-Stevens Act does not prescribe the method for determining OY, and NMFS uses various methods to determine OY throughout the Nation, depending on the information available and the unique characteristics of specific fisheries.

Magnuson-Stevens Act section 3(33) defines ''optimum,'' with respect to the yield from a fishery, as the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities and taking into account the protection of marine ecosystems; that is prescribed on the basis of the MSY from the fishery, as reduced by any relevant economic, social, or ecological factor; and, in the case of an overfished fishery, that provides for rebuilding to a level consistent with producing the MSY in such fishery (16 U.S.C. 1802(33)).

Under National Standard 1, OY must be achieved over the long-run but not necessarily with precision each individual fishing year. Further, while OY is derived from MSY, National Standard 1 does not require that a fishery achieve MSY in any particular year or over the long run. Accordingly, as the preamble to the proposed rule states, achieving OY in the Cook Inlet salmon fishery is complex and must incorporate management measures that

limit the harvest of healthy stocks in order to prevent overfishing on co-occurring weak stocks. Because of this complexity, OY is specified at the fishery level for the Cook Inlet salmon fishery rather than for each individual stock. Specification of OY at the fishery level is consistent with National Standard 1 and guidelines that direct that ''OY may be established at the stock, stock complex, or fishery level'' (50 CFR 600.310(e)(3)).

The OY range for the Cook Inlet salmon fishery is defined as the combined catch from all salmon fisheries occurring within Cook Inlet [State and Federal water catch], which results in a post-harvest abundance within the escapement goal range for stocks with escapement goals, and below the historically sustainable average catch for stocks without escapement goals, except when management measures required to conserve weak stocks necessarily limit catch of healthy stocks. This OY is derived from MSY, as reduced by relevant economic, social, and ecological factors. These factors include annual variations in the abundance, distribution, migration patterns, and timing of the salmon stocks; allocations by the Alaska Board of Fisheries; traditional times, methods, and areas of salmon fishing; ecosystem needs; consideration of the risk of overharvesting; and inseason indices of stock strength. Factors of particular importance to NMFS include providing harvest opportunities for all Cook Inlet salmon fishery sectors and preventing overfishing by accounting for the co-occurrence of weaker stocks. Therefore, achieving OY may result in the harvest of some Cook Inlet salmon stocks that is below the maximum potentially allowable amount in any given year. Information regarding the potential for limited utilization of some Cook Inlet salmon stocks was reviewed by the Council and NMFS prior to the recommendation and approval of Amendment 14 and more information on this topic is provided in the Response to *Comment 23.*

Further, the only other viable management alternative (Alternative 3) presented additional challenges to achieving OY through the creation of new management uncertainty expected to result in reduced or eliminated EEZ harvests in any given fishing season and to impose additional costs on participants, as described in the preamble to the proposed rule and as provided in the responses to *Comments 27* and *33.*

Comment 20: Amendment 14 is not consistent with MSY management as required by the Magnuson-Stevens Act because salmon management would continue to rely upon flawed escapement goals set through the Alaska Board of Fisheries process. Existing escapement goals result in overescapement in the Kenai and Kasilof river systems which lowers harvests, decreases future yields, and reduces fish size. Lower escapement goals would allow more harvest by all users. Several commenters provided specific data the commenters argued support this comment and stated that the negative impacts of overescapement were not sufficiently addressed in the Analysis.

Response: The Magnuson-Stevens Act does not require management that achieves MSY. Rather, as codified by National Standard 1, conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the OY from each fishery for the U.S. fishing industry. Additional discussion of OY is provided in the response to *Comment 19.*

Further, NMFS has determined that MSY as defined by Amendment 14 is consistent with the Magnuson-Stevens Act. Under the Magnuson-Stevens Act, NMFS must ensure the capacity of the fishery to produce MSY on a continuing basis. In the National Standards guidelines, MSY is defined as ''the largest long-term average catch or yield that can be taken from a stock or stock complex under prevailing ecological, environmental conditions and fishery technological characteristics (*e.g.,* gear selectivity), and the distribution of catch among fleets'' (50 CFR 600.310(e)(1)). This information is considered, when and where known, during the State's escapement goal setting process, described in Sections 3.1 and 11 of the Analysis. Further, it is consistent with National Standard 1 to reduce harvest from MSY based on relevant economic, social, and ecological factors to achieve OY and prevent overfishing. This is also consistent with National Standard 6, which acknowledges the inevitable changes in a fishery that result from biological, social, and economic occurrences, as well as fishing practices, and dictates that ''[t]o the extent practicable, FMPs should provide a suitable buffer in favor of conservation'' (50 CFR 600.335(c)). Management measures that reduce harvest levels below MSY to account for uncertainty, protect weaker stocks, and provide harvest opportunity for all fishery sectors are consistent with the Magnuson-Stevens Act.

Multiple commenters expressed concern about overescapement for Cook Inlet salmon stocks. Overescapement means that the number of spawning salmon exceeds the upper bound of the escapement goal range established for a stock, and is considered in Section 3.1 of the Analysis. Commenters' concerns focused on two potential adverse impacts of overescapement. First, that overescapement results in forgone yield in the year that it occurs because more harvest is theoretically allowable at sustainable levels and any surplus fish not harvested cannot be harvested in the following year (*i.e.,* more harvest would keep escapement goal ranges from being exceeded and still be sustainable). The second concern asserted by the commenters is that when escapement goals are exceeded, or an escapement goal is set inappropriately high, too many fish spawning will decrease future yields, a concept referred to as overcompensation. The commenters assert that the potential drivers of overcompensation are likely density dependent and may include competition for habitat, competition for prey among juvenile salmon, disease, predation, or some combination of these and other factors that may also be exacerbated by other environmental variables.

The Council specifically conducted an independent analysis of MSY and the potential for overcompensation in Kenai and Kasilof river sockeye salmon stocks, which is presented in Section 13 of the Analysis. SSC review determined that the conclusions of this analysis were consistent with ADFG's analysis of escapement goals, that ADFG's escapement goals were established within the range expected to produce MSY, and that there is limited evidence for overcompensation across the observed range of escapements. This information indicates that the escapement goals established by the State for these stocks are appropriate estimates of MSY. Thus, while instances of overescapement will result in foregone yield in the current year, they are unlikely to result in reductions in future recruitment and yield for the primary stocks harvested by the drift gillnet fleet in Cook Inlet.

Information is not available to analyze overescapement or its potential impacts for the Cook Inlet salmon stocks without escapement goals, as described in the following comment. In the absence of specific stock information, conservative management using suitable proxies while following the precautionary principle is consistent with the National Standard 1 Guidelines for dealing with data-poor stocks (50 CFR 600.310(e)(1)(v)(b) & (h)(2)). The Guidelines provide flexibility in setting MSY and other reference points based

on insufficient data and in consideration of stocks with unusual life history characteristics, including salmon. The risk of overfishing as a result of harvest rates that are too high is much greater than the uncertain and speculative risk of under harvest or overescapement. Therefore, in the absence of information, the State is managing the data-poor salmon runs consistent with NMFS's approach to management of data-poor fish stocks.

From a practical perspective, it is not possible to manage mixed stock salmon fisheries for MSY on all stocks as the composition, abundance, and productivity of stocks and species in the fishery vary substantially. Overescapement is a common occurrence in Cook Inlet, as noted in the Analysis Section 3.1. Overescapement usually results from (1) a lack of fishing effort, (2) unexpectedly large salmon runs, or (3) management or economic constraints on the fishery. Management constraints result, in part, from State management of salmon fisheries for maximum harvest of the largest, most productive salmon stocks, while protecting less abundant salmon stocks and species. The State has established clearly-defined goals to manage salmon to provide for escapement of identified stocks of concern within mixed-stock fisheries as described in Section 3.1 of the Analysis. Independent Federal management of a separate commercial salmon fishery in Cook Inlet would not be expected to reduce the potential for overescapement or address any of the factors that cause overescapement. As discussed in Sections 2.5 and 4.7.1.3 of the Analysis and the response to *Comment 17,* independent Federal management of a separate commercial fishery in the EEZ under Alternative 3 would be responsive to State management decisions and would also be more conservative to account for new management uncertainty in order to prevent overfishing. No management alternatives under consideration were expected to increase harvest levels above the status quo.

It is also noted in Section 4.5.2.2 of the Analysis that several recent years have been particularly challenging with respect to salmon management in Cook Inlet. In 2018, the sockeye run in UCI deviated particularly sharply from most previous runs, both in terms of size and timing. The total sockeye run was about 32 percent below what was forecast, and sockeye landings were 22 percent of the 1990–2017 annual average. As of 2018, this was only the second time that more than half the Kenai River sockeye run arrived after August 1. These challenges would be further exacerbated by the additional management uncertainty and lack of Federal management flexibility that were identified as concerns under Alternative 3 and described in the preamble to the proposed rule. Fishery managers do not have the benefit of complete information during the fishing season and must make decisions based on what is known. In these situations, conservative management decisions that may reduce the total harvest are prudent in order to avoid overfishing.

Comment 21: The Council and NMFS never conducted stock assessments for the nearly 1,300 Cook Inlet salmon stocks, and the FMP purports to conduct no annual stock assessments. This action allows MSY to be set at what harvest the State allows based on its escapement goals, which are often not set at biological MSY. Only one stock in Cook Inlet (Kasilof River Sockeye) has a biological escapement goal. Also, most salmon stocks in Cook Inlet have no escapement goals. For those stocks, the FMP would set OY at whatever level of fish get harvested, making OY equal actual yield. For example, for pink salmon, which commonly have returns of 20 million fish but no escapement goals, OY could be one fish. This does not satisfy National Standard 1 to ensure the greatest benefit to the nation or MSY.

Response: NMFS used the best scientific information available to evaluate MSY for Cook Inlet salmon stocks and specify MSY and OY for the Cook Inlet salmon fishery. Section 3.1 of the Analysis describes the escapement goals established for Cook Inlet salmon stocks, the approaches used in their development, salmon management considerations, and a retrospective analysis comparing proposed Federal reference points to State salmon management which found that State management would have overwhelmingly prevented overfishing had the Federal reference points been in place. Further, the State's incorporation of uncertainty into escapement goal development and management was reviewed the SSC, the Council, and NMFS and is presented in Section 11 of the Analysis.

There are not established escapement goals or monitoring for all the salmon runs in Cook Inlet due to practical and logistical constraints. However, the State, in conjunction with salmon resource users, has identified and monitors the most important salmon stocks. These include heavily utilized stocks of chinook, sockeye, and coho salmon. For the smaller stocks of sockeye, Chinook, pink, chum, and coho salmon, there is other information available (catch and indicator stocks) to indirectly monitor abundance. The State manages all the salmon stocks in UCI based on the information it collects from indicator stocks (stocks that can be assessed) and the performance of salmon fishery sectors in UCI. In the absence of specific stock information, the State has managed these stocks conservatively, with suitable proxies for MSY, following the precautionary principle, and NMFS finds that the State's escapement-based management is consistent with the National Standard 1 Guidelines for dealing with data-poor stocks (50 CFR 600.310(e) & (h)(2)). Therefore, in the absence of information, the State is managing the data-poor salmon runs consistent with NMFS's approach to management of data-poor fish stocks.

NMFS does not independently monitor returns of Cook Inlet salmon stocks or assess Cook Inlet salmon abundance. The biology of salmon is such that escapement is the best time for routine assessment and long-term monitoring because the number of spawning salmon can be counted with a high degree of accuracy. Accordingly, the State collects information on Cook Inlet salmon escapement—returns of specific salmon stocks to specific river systems—from sampling sites (*e.g.,* weirs, sonar stations, counting towers) that are generally located within State waters and NMFS relies on this information. It is not possible to collect complete information on escapement or run strength from sampling in the EEZ alone. Given that the Magnuson-Stevens Act does not generally provide NMFS with the authority to manage salmon resources within State waters (as discussed in the response to *Comment 16*), and that extensive information is already collected by the State on numerous salmon stocks, NMFS has limited ability to independently collect escapement information.

Additionally, NMFS, like the State, has limited funds for stock assessment research. NMFS allocates research funds based on national and regional priorities, and would need to eliminate or reduce existing projects to start a new project to gather the scientific information necessary to conduct a stock assessment for any given salmon run.

Because the State uses the best scientific information available for the management of Cook Inlet salmon stocks, State escapement goals were integral to the reference points developed for Amendment 14 and every other action alternative considered by the Council and NMFS.

NMFS is not proposing to specify OY as equal to actual yield for any salmon

stocks. Instead, NMFS is specifying an OY for the entire Cook Inlet salmon fishery that is intended to achieve long-term average yields consistent with the State's escapement goals, reduced from MSY as necessary to protect weaker stocks. In specifying OY for the Cook Inlet salmon fishery, which includes a number of interrelated stocks, NMFS must also remain consistent with National Standard 1's instruction that fishery management measures prevent overfishing. Under the State's escapement-based management system, as well as under all of the management alternatives reviewed by the Council and NMFS, lower utilization of some stocks may occur to prevent overfishing of others. NMFS finds that this is consistent with the dual mandates of National Standard 1. Further, no alternative reviewed by the Council and NMFS was expected to increase the harvest of Cook Inlet salmon above the status quo.

Comment 22: Amendment 14's justification of preventing overfishing seems duplicitous: The main problem for both the main salmon runs of Cook Inlet (the Kenai and Kasilof) has been overescapement, not under-escapement. Properly-regulated fishing provides the solution to overescapement. While some species (*e.g.,* Kenai Chinook salmon) face declining return numbers, that does not impact the drift gillnet fishery as Chinook salmon do not swim close enough to the surface in the EEZ to catch. Closing the EEZ due to overfishing is not correct. There is no overfishing problem for this area.

Response: Certain salmon stocks within Cook Inlet are of conservation concern. These are identified in Section 3.1 of the Analysis. NMFS agrees that the Cook Inlet drift gillnet fishery has minimal catch of Chinook salmon within Cook Inlet, and that Amendment 14 is not likely to significantly increase the drift gillnet harvest of Chinook salmon.

However, NMFS disagrees that preventing overfishing is not an essential and valid rationale for this action. As noted in Section 3.1.2 of the analysis, the drift gillnet fleet can substantially interact with other stocks, such as Susitna River and Fish Creek sockeye, that the State has previously designated as stocks of concern. Similarly, Tier 2 coho and sockeye salmon stocks that the drift gillnet fleet utilizes were identified as briefly subject to overfishing. Conservative management that necessarily reduces the harvest of healthy stocks to avoid overharvest of weak stocks is appropriate management under the Magnuson-Stevens Act.

Finally, NMFS has an obligation to not only correct overfishing when it occurs, but to prevent it from occurring in the first place. As described in the preamble to the proposed rule, Amendment 14 takes the most precautionary approach to preventing overfishing.

NMFS acknowledges that Kenai and Kasilof River sockeye salmon stocks can exceed their established escapement goal ranges. The response to *Comment 20* provides information about the causes and potential impacts of overescapement.

Comment 23: Amendment 14 ignores the fact that most of the coho, pink and chum salmon go unharvested. Pink salmon are the largest stock of salmon that enter Cook Inlet, some years exceeding 20 million fish, and our harvest rate is about 2 percent instead of the 53 percent that ADFG says achieves MSY. The commercial fishery and processing sector are eager to use these underutilized stocks. As there is little recreational and subsistence harvest of pink and chum salmon, there will be little to no harvest of these underutilized stocks if the fleet is restricted to State waters, which is not consistent with achieving MSY or OY.

Response: NMFS acknowledges the potential for limited utilization of some Cook Inlet salmon stocks under Amendment 14 in Section 3.1.4 of the Analysis. The Cook Inlet salmon fishery is complex with mixed-stocks and many divergent users. It is difficult to manage a mixed-stock salmon fishery, like the Cook Inlet salmon fishery, for MSY on all stocks as the composition, abundance, and productivity of co-occuring salmon stocks vary widely. The Cook Inlet drift gillnet fishery sector targets mixed salmon stocks, and is unable to catch individual stocks without incidental catch of others.

As explained in Sections 3.1 and 4 of the Analysis, the State does not fully utilize pink and chum salmon in UCI, in part due to efforts to conserve coho, chinook, and sockeye salmon and to provide harvest opportunity for all commercial, recreational, and subsistence fishery sectors. Commercial fishery sectors targeting pink and chum salmon, including the drift gillnet fishery, also catch coho and sockeye salmon. Several sockeye and coho salmon stocks in Cook Inlet have been designated as stocks of concern or were subject to brief periods of overfishing, and other fishery sectors in Cook Inlet, including the recreational and subsistence sectors, utilize these stocks. Consideration of recreational and subsistence fishing opportunities, in addition to commercial fishing, are required under National Standard 1. The State has attempted to ensure the conservation of Cook Inlet salmon resources and allocate the harvest of the resources in a manner consistent with the goal of maximizing the benefits across all users. As a result, commercial harvest of some stronger stocks (pink and chum) is constrained to protect weaker stocks (coho and sockeye) that are important to all fishery sectors.

Comment 24: How can NMFS assume that salmon management in State waters, which has resulted in multiple fishery disaster declarations for Cook Inlet, including those made in 2018 and 2020, will result in OY being achieved?

Response: On March 8, 2021, the Alaska Governor Mike Dunleavy requested the Secretary of Commerce determine a commercial fishery failure due to a fishery resource disaster for the 2018 Eastside set net fishery in Cook Inlet, and all 2020 salmon fisheries in UCI, under the Magnuson-Stevens Act at 16 U.S.C. 1861a(a). These requests are under review and the Secretary of Commerce has not made a determination. The Secretary of Commerce can determine a commercial fishery failure under the Magnuson-Stevens Act. The Act provides that at the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

(A) natural causes;

(B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions (including those imposed as a result of judicial action) imposed to protect human health or the marine environment; or

(C) undetermined causes.

The State's request cited natural or undetermined causes that would fall outside the control of fishery managers to correct, regardless of jurisdiction. Specifically, the State's request cited unfavorable ocean conditions and the impacts of recent marine heatwaves that contributed to low salmon abundance and poor marine survival which have resulted in fishery closures and restrictions. None of the management alternatives considered could directly address these factors, which are outside of the control of fishery managers. However, when considering all factors within the control of fishery managers, and the ability of management to respond to the wide variety of factors that can affect a fishery, NMFS determined that Amendment 14 will

achieve OY for the Cook Inlet salmon fishery.

NMFS also notes that the fishery management actions taken in these years allowed escapement goals to be met for most Cook Inlet salmon stocks, at levels which would be consistent with the OY range being specified under Amendment 14. While this resulted in lower fishery revenues, it is consistent with the precautionary management approach to preventing overfishing that NMFS is obligated to apply under National Standard 1.

The Gulf of Alaska pink salmon disaster declaration for 2016 did not apply to the UCI management area and is therefore outside the scope of this action. However, it is again noted that the cause for this disaster fell outside the control of fishery managers.

Comment 25: Amendment 14 will preclude essential fishery management tools, such as data from early commercial harvests in the EEZ and the test fishery, which are necessary to achieve OY.

Response: Amendment 14 does not prohibit scientific research, which may include test fisheries, nor does Amendment 14 purport to regulate scientific research activity as ''fishing'' under the Magnuson-Stevens Act (see 16 U.S.C. 1802(16)). Both the Anchor Point Offshore Test Fishery and the Port Moller Test Fishery (which currently occurs in EEZ waters off Alaska closed to commercial salmon fishing) receive Letters of Acknowledgement from the Alaska Fisheries Science Center supporting their scientific activities. Amendment 14 would not change the State's ability to conduct scientific test fisheries in this manner.

NMFS acknowledges that fishery dependent data, such as early season harvest, can play an important role in salmon management. However, early season harvest occurs before there is more complete information about realized run strength and can result in fishery exploitation rates that are too high. An important factor in the consideration of Amendment 14 is that it would minimize both scientific and management uncertainty related to harvests in the EEZ relative to the other viable alternative. Further, the State indicated that it could obtain this needed information through the offshore test fishery in Cook Inlet. Therefore, this action is not expected to limit the data and management tools necessary to achieve OY.

Comment 26: NMFS has not sufficiently analyzed the environmental and conservation impacts that will occur to Cook Inlet salmon stocks as a result of Amendment 14 and this final rule. These impacts are unknown, untested, and highly controversial, and raise serious questions as to whether the approval of Amendment 14 will significantly damage the long-term conservation of the fishery.

Response: NMFS disagrees, and notes that Section 3 of the Analysis comprehensively evaluates the environmental impacts of Amendment 14. A copy of the resulting Finding of No Significant Impact is available from NMFS (see **ADDRESSES**). This evaluation includes Cook Inlet salmon stocks. The response to *Comment 34* reviews the uncertainties that were presented to the Council, NMFS, and the public prior to the recommendation and approval of Amendment 14.

National Standard 8

Comment 27: Amendment 14 fails to meet National Standard 8's requirement to minimize to the extent practicable adverse economic impacts on communities and allow for their sustained participation. Amendment 14 would essentially put UCI drift gillnet fishermen and processors out of business for no good reason and harm associated communities. This could be a final blow to the commercial fishing industry of Cook Inlet.

Response: NMFS has determined that Amendment 14 is consistent with National Standard 8. National Standard 8 provides that conservation and management measures shall, consistent with the conservation requirements of the Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data based on the best scientific information available, in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities (16 U.S.C. 1851(a)(8)).

Regarding the sustained participation of fishing communities, Section 4.5.5 of the Analysis describes the relative importance of Cook Inlet salmon resources to fishing communities. Section 4.7.1.4 of the Analysis acknowledges that Amendment 14 may have negative impacts to the drift gillnet fleet, but that other Cook Inlet salmon fishery sectors, which are also part of fishing communities and provide corresponding benefits, would be likely to benefit as a result. Therefore, NMFS determined this action will not negatively affect the sustained participation of fishing communities.

Regarding minimizing adverse economic impacts to fishing communities to the extent practicable, NMFS and the Council anticipated similar impacts under both Alternatives 3 and 4. Both available options were expected to significantly constrain or eliminate drift gillnet harvest in the Cook Inlet EEZ. However, Alternative 3 would have created additional management uncertainty, imposed additional costs on participants to operate in the EEZ (*e.g.,* installation and operation of a Vessel Monitoring System (VMS)), and increased the potential for an unanticipated closure of the Cook Inlet EEZ to commercial salmon fishing before or during each season. NMFS concluded that an unexpected EEZ closure after participants had made significant investments to operate in the Federally-managed fishery for the season and were prepared to operate would be more disruptive than the potential for a marginal reduction in catch and deliveries but a certain fishery season in State waters under Amendment 14. Furthermore, given the increased management uncertainty under Alternative 3, it is possible that any additional fishing opportunity in the Cook Inlet EEZ would not have resulted in increased harvests relative to Alternative 4 and that the available harvest opportunities would not be sufficient to recoup the additional costs associated with Alternative 3. Amendment 14 reduces uncertainty regarding whether a Federal fishery will open in any given year and results in less additional costs and burdens on fishery participants who can continue to operate in State waters without incurring the additional operating costs necessary to fish in the EEZ; therefore, Amendment 14 minimizes adverse economic impacts to the extent practicable. Additional discussion of the potential economic impacts to harvesters and processors are provided in the responses to *Comments 30* and *33*.

Further, as required by National Standard 8, Amendment 14 balances the needs of fishing communities with required conservation of Cook Inlet salmon stocks. NMFS has a mandatory obligation to prevent overfishing, and must minimize adverse economic impacts only to the extent practicable in light of this conservation mandate (50 CFR 600.345(b)(1)). Between the two viable management alternatives identified by the Council, NMFS finds Amendment 14 is most likely to prevent overfishing and will minimize adverse economic impacts to the extent practicable. Understanding that this action does not change allocations or modify management within State

waters, this action is likely to optimize conservation and management of Cook Inlet salmon stocks beyond the other viable alternative available to the Council and NMFS.

Comment 28: The loss of revenue from commercial fishing will negatively affect Kenai Peninsula and other fishing communities. Local spending on support services and associated tax revenue will decrease. NMFS did not sufficiently analyze the proposed EEZ closure so the community and economic effects are not known, however, it is safe to say there will not be an increase of economic activity if the EEZ is closed.

Response: NMFS acknowledges that a loss of revenue from commercial fishing could negatively affect fishing communities on the Kenai Peninsula and elsewhere. However, NMFS finds that this negative impact is uncertain, that community impacts may not be discernable compared to the status quo, and that negative impacts may be offset. As described in Section 4.1.7.4 of the Analysis, the drift gillnet fleet may be able to increase their harvest within State waters. Further, the State may modify fishing regulations to further account for the EEZ closure. If the drift gillnet fleet cannot achieve its historical salmon harvest within State waters, other Cook Inlet salmon fishery sectors may increase their harvest, which is expected to offset reductions in economic activity as a result of the EEZ closure.

Generally, communities, support services, and tax revenues more associated with the drift gillnet fleet will be more likely to experience adverse impacts if the drift gillnet fleet cannot achieve its historical harvest. Conversely, communities more associated with other commercial salmon sectors in Cook Inlet, as well as recreational, subsistence, and personal use users, would benefit if overall decreases in harvest by the drift gillnet fleet provide additional harvest opportunities within State waters. Compensatory fishing effort in State waters, as well as increased salmon availability and catch rates within State waters, as a result of the EEZ closure to commercial salmon fishing are expected to offset losses and minimize forgone yield. Given the complexities involved with the diverse and interdependent network of salmon fishery sectors within Cook Inlet, it is not possible to precisely estimate the magnitude and distribution of these potential benefits across specific communities and users. It is likely that impacts would be distributed across many communities given the different users involved. It is also likely that some benefits would accrue to some of communities that would potentially also experience adverse impacts based on their engagement in or dependence on the UCI salmon drift gillnet fishery (*e.g.,* Kenai and Kasilof, both of which have residents and business enterprises engaged in the commercial set gillnet, sport, and personal use salmon fishery sectors in addition to the UCI salmon drift gillnet fishery sector).

Comment 29: Closing the EEZ will result in lost revenues to the city of Homer, home to 20–25 percent of the drift gillnet fleet (more than 100 permit holders). It would no longer be practical to operate out of Homer because of increases in transit times, expenses, and extended hours on machinery and crew required to fish exclusively in State waters. It is a huge burden to relocate to Kasilof or Kenai rivers for the season, where the fishery is crowded with boats, openings are in a much smaller area, the quality of fish is deteriorating, and prices are lower than the fish caught in open waters of the EEZ. These permit holders will be forced to either move or go out of business.

Response: NMFS acknowledges that communities with vessels that are more dependent on the Cook Inlet EEZ for access to drift gillnet fishing opportunities may experience greater adverse impacts as a result of this action due to the relatively high costs to access productive fishing areas within State waters when operating out of the southern UCI. Further, NMFS acknowledges that the drift gillnet fleet may shrink as result of the reduced profitability for some participants. The Analysis before the Council and NMFS included this information.

As summarized in Section 4.7.1.4 of the Analysis, changes in the harvest levels of the UCI drift gillnet fleet due to an EEZ closure would have the potential to differentially affect communities, including communities associated with the UCI drift gillnet fishery and those associated with other salmon fishery sectors. With respect to the former, communities would be affected differently based on their relative engagement in and dependency on the UCI drift gillnet fishery, as measured by gross revenue diversification of locally owned drift gillnet vessels, gross revenue diversification of the larger ''community harvesting sector,'' gross revenue diversification of local UCI drift gillnet fishery permit holders, or some combination thereof, or the metrics used to categorize levels of community engagement. While a few different communities ranked high on a single engagement or dependency indicator, the data in Sections 4.5.5.2.1, 4.5.5.2.3, and 4.5.5.3.2 of the Analysis taken together suggest that the communities of Kasilof, Kenai, Nikiski, Nikolaevsk, Ninilchik, and Soldotna are among the communities potentially the most vulnerable to community-level adverse impacts specifically associated with the drift gillnet harvesting sector resulting from an EEZ closure, although the larger and more diversified Homer fleet has, by far, more revenue potentially at risk in absolute terms than the fleet of any other community.

NMFS expects that reductions in harvest by the drift gillnet fleet will be largely offset by increases in harvest by other fishery sectors. Further, during Council deliberations and in public comment submitted on Amendment 14, the State concurred that, of the viable alternatives, Amendment 14 is most likely to achieve the salmon conservation and management objectives established by the Council and the specific requirements of the Magnuson-Stevens Act to prevent overfishing and achieve optimum yield on a continuing basis for the UCI salmon fishery. The State also agreed that Cook Inlet salmon stocks could be harvested successfully within State waters. All fishery sectors within Cook Inlet provide revenues to fishing communities and associated support businesses. NMFS also notes that Amendment 14 minimizes adverse economic impacts to the extent practicable when compared to the only other viable alternative.

Economic Impacts

Comment 30: Homer depends on Cook Inlet salmon stocks, but for about 20 years has realized decreased benefits with the decline of harvested Cook Inlet salmon stocks. A major processor in our community had a devastating fire at its location. The company, a major player in the processor sector, decided not to rebuild the facility, with the uncertainty surrounding the management of Cook Inlet salmon stocks being a factor in its decision. This facility used to employ residents year-round along with some seasonal summer help, mostly from out of state. Amendment 14 would continue these problems.

Response: NMFS acknowledges the importance of Cook Inlet salmon to fishing communities including Homer and that uncertainty creates challenges. However, NMFS determined that independent Federal management of a separate commercial salmon fishery in the Cook Inlet EEZ, the only other viable management alternative, would not increase the stability of the commercial environment because it would impose

additional costs on vessels, increase uncertainty for harvesters and processors, and potentially impact fishing communities.

The complexities associated with salmon management and fluctuations in salmon abundance can make it difficult to create a stable and predictable commercial environment. NMFS would not expect the only other viable management alternative, Alternative 3, to provide additional regulatory and harvest certainty for commercial salmon harvesters and processors. As described in Sections 2.5 and 4.7.1.3 of the Analysis, Alternative 3 would create additional management uncertainty and result in the increased potential for an unanticipated closure of the Cook Inlet EEZ to commercial salmon fishing before or during each season. NMFS concluded that an unexpected EEZ closure during a time that a processor was prepared to receive deliveries of fish would be more disruptive than the potential for a marginal reduction in catch and deliveries but a certain fishery season under Amendment 14. Additional discussion of the potential impacts to processors is provided in the response to *Comment 33.*

Comment 31: If you look at the fishermen now, you won't see many young faces. It's hard to get deckhands when the pay has been repeatedly cut due to regulatory restrictions that limit commercial harvest. Young fishermen who were encouraged to get into this fishery and borrow money for permits have had their feet knocked out from under them.

Response: Section 4.5.3.2 of the Analysis describes the trends in the age of UCI drift gillnet fishery participants which indicate the average age of a permit holder in the Cook Inlet drift gillnet fishery is increasing. This indicates that older harvesters may be continuing to fish beyond their expected retirement age or younger harvesters have been slow to replace them, or some combination. However, the median age increase of Cook Inlet drift gillnet fishery permit holders was lower than the 28 percent increase for other State fishery permit holders as a whole over the same time period. This indicates that the Cook Inlet drift gillnet fishery may be providing more new entrant opportunities than other State fisheries in Alaska.

Regarding economic conditions in the fishery, biological trends and associated socioeconomic conditions within the Cook Inlet fishery have fluctuated widely over time, even with access to the EEZ. These cyclical trends are not expected to be modified by any of the management alternatives that were considered for this action.

Comment 32: Many commenters stated that Amendment 14 eliminates a viable fishery by closing waters traditionally fished by the drift gillnet fleet prior to the establishment of the EEZ. They indicated this would devastate the lives of hardworking families, and will eliminate the potential for future entrants to participate in the fishery. This will destroy longstanding commercial fishing heritage and culture in the region negatively impacting a struggling group of 500 small boat fisherman and small communities in Alaska.

Response: NMFS acknowledges that this action may have adverse impacts on drift gillnet fishermen. However, NMFS disagrees that this action would eliminate the drift gillnet fishery, and NMFS determined that no other viable management alternative considered by the Council during the development of Amendment 14 would have less adverse economic impacts. Section 4 of the Analysis describes economic trends in the fishery over time. It is noted that there are cyclical periods of high earnings and low earnings. In recent years, revenues in the fishery have been low. None of the action alternatives were expected to result in significant changes to the existing economic conditions. As described in Section 4.7.1.4 of the Analysis, this action will have the greatest impact to drift gillnet participants that fish primarily or exclusively in the EEZ. This action closes a portion of the area previously open to the drift gillnet fleet; all commercial salmon fishery sectors within Cook Inlet have operated, and will continue to operate, within the State waters of Cook Inlet. This includes State water areas where the drift gillnet fleet currently harvests over half of its annual catch, on average, and where all other commercial salmon harvest in Cook Inlet occurs.

Comment 33: Many commenters noted that the proposed rule preamble states that the economic impact of the closure ''would be proportional'' to the extent that individual vessels rely on the EEZ or will impact fishing communities only to the extent that they are dependent on fishing in the EEZ. Closing the EEZ was not sufficiently analyzed and will have more severe economic impacts than expected. Many commenters suggested that a closure of the EEZ is likely to collapse the commercial salmon fishing industry in Cook Inlet altogether. One of the last remaining Cook Inlet processing companies gave public comment that losing fish landings due to closing the EEZ would drive them out of business. Set net fishermen cannot operate without processors, and processors have explained that closure of the EEZ makes business in Cook Inlet impractical.

Response: NMFS disagrees that the impacts of closing the EEZ to commercial salmon fishing were not sufficiently analyzed. Sections 3 and 4 of the Analysis present a comprehensive assessment of the impacts of each alternative using the best scientific information available, including Amendment 14.

NMFS is aware that a majority of commenters had significant concerns with the economic impacts of this action. There were many assertions to the effect that Amendment 14 would collapse commercial fishing within Cook Inlet. However, these commenters did not present additional information to support the conclusion that the commercial salmon fishery in Cook Inlet would collapse; NMFS disagrees with this conclusion and the Analysis does not support it. The drift gillnet fleet will still be able to fish within State waters where they currently harvest over half their average annual catch. Further, this action is not expected to decrease the harvest from other commercial salmon fishery sectors in Cook Inlet or other commercial fisheries that deliver to Cook Inlet processors. Compensatory salmon fishery effort is expected within State waters, and NMFS anticipates that at least some of the fish that the drift gillnet fleet previously harvested in the Cook Inlet EEZ will be harvested by the commercial fishery sector within State waters. However, even if there is no additional commercial harvest within State waters, which is not anticipated, the majority of the commercial salmon harvest will continue to occur within the State waters of Cook Inlet, consistent with existing conditions.

Existing processors in Cook Inlet, as well as the other processors outside of Cook Inlet where commercially caught Cook Inlet salmon are transported for processing, are described in Section 4.5.4.1 of the Analysis. Six processors accounted for an average of 91.8 percent of the ex-vessel value of the UCI drift gillnet fishery harvest from 2009–2018. During this same period, the UCI salmon drift gillnet fishery accounted for an average of 61 percent of the total seafood purchases (salmon, halibut, crab, etc.) of the three most dependent facilities and accounted for an average of 19 percent of the total purchases of the three least dependent facilities. Given the number of processors, including operations that are well diversified into other fisheries, it is unknown if this action would impact

processing capacity beyond other factors outside of the control of fishery managers such as natural variations in salmon abundance and market conditions.

Additionally, this action does not change the ability of drift gillnet fleet to direct market or process their own catch for sale, or for new entrants in the processing sector to take advantage of a market opportunity.

It is also noted that the only other management alternative available to the Council and NMFS was expected to have more adverse economic impacts. That alternative, Alternative 3, would have required participants to obtain a Federal Fisheries Permit, VMS, logbooks, and accurate GPS positioning equipment as described in Sections 2.5.7 and 4.7.2.2 of the Analysis. Alternative 3 would also have required NMFS to set total allowable catch (TAC) before each fishing season. As a result, TAC would be set conservatively relative to the status quo in order to reduce the risk of overfishing and could not be increased in a timely manner if inseason information indicates that run strength is stronger than predicted. Commercial salmon harvest in the EEZ would be prohibited if the Council and NMFS did not project a harvestable surplus, with an appropriate buffer for the increased management uncertainty. Further, as described in Section 2.5.3 of the Analysis, gaps in data could have required closing the EEZ to commercial fishing in any given year. Finally, Alternative 3 would have increased uncertainty each year for fishery participants in developing a fishing plan because NMFS would have determined whether the Cook Inlet EEZ could be open to commercial fishing on an annual basis and shortly before the start of the fishing season. If the EEZ was open, NMFS could have closed it unexpectedly early if harvest limits were reached. NMFS concluded that these factors would create more adverse economic impacts and instability than the consistent management approach under Alternative 4.

Comment 34: The economic impacts of Amendment 14 on Cook Inlet commercial salmon fishermen are not adequately analyzed. It is not clear whether a drift gillnet fisherman's commercial catch will be reduced by 5 or 95 percent and this action could be the tipping point to put Cook Inlet commercial drift gillnet fishermen out of business.

Response: NMFS acknowledges that there is uncertainty regarding the economic impacts of Amendment 14. This uncertainty was before both the Council and NMFS in making their decisions to recommend and approve Amendment 14, respectively. A number of factors, summarized below, make it difficult to predict the exact impacts of this action despite the Council and NMFS using the best scientific information available; nonetheless, there is enough information to conclude that, on average, the drift gillnet fleet could continue to harvest the majority of their existing catch.

Generally, NMFS expects that the Cook Inlet drift gillnet fleet could maintain their existing levels of salmon removals in State waters, which currently constitutes over 50 percent of their average annual catch, as described in Section 3.1.4 of the Analysis. Vessels could also relocate their previous EEZ fishing effort to State waters. However, as stated in Section 4.1.7.4 of the Analysis, on a vessel by vessel basis, the impact of Amendment 14 would be proportional to the extent that they rely on the EEZ for target fishing. As different vessels have different levels of dependency on the EEZ, as well as ability and willingness to adapt to fishing only in State waters, the impacts are more variable to individual harvesters and are not possible to predict with available information.

Additionally, the State may modify management of the drift gillnet salmon fishery sector within State waters to account for the EEZ closure. This could include providing additional time and area openings for the fishery sector within State waters. Under current State regulations, the drift gillnet fishery sector typically operates for two or three 12 hour periods per week, with the potential for additional time if salmon abundance is high, as described in Section 4.5.2.1 of the Analysis.

Furthermore, the conditions within the fishery during any given year have a substantial impact on the ability of each fishery sector to harvest their target stocks. These include, but are not limited to, overall salmon abundance, run timing, management measures required to conserve weak stocks, and management measures required to provide each fishery sector with a harvestable surplus of their target stocks.

Section 4.7.1.4 of the Analysis does acknowledge that the loss of EEZ fishing opportunities may cause the drift gillnet fleet to shrink. However, this may provide additional harvest opportunity for remaining participants in the drift gillnet fishery sector, as well as other Cook Inlet salmon fishery sectors.

Analysts have obtained and synthesized the best scientific information available, presenting conclusions and recognizing uncertainty wherever possible. Consistent with National Standard 2 guidelines on FMP development (50 CFR 600.315(e)(2)), ''[t]he fact that scientific information concerning a fishery is incomplete does not prevent the preparation and implementation of an FMP (see related §§ 600.320(d)(2) and 600.340(b)).''

Comment 35: According to a 2015 McDowell Group report, the seafood industry in Southcentral Alaska directly employs over 10,000 people seasonally and has an annual economic output of $1.2 billion. Amendment 14 jeopardizes that industry. The closure of the EEZ reduces the effectiveness of the fleet dramatically—48 percent of the historical harvest of the drift fleet is from this area. All of the Cook Inlet salmon fishery sectors that rely on our annual salmon returns are important to the City of Kenai. Amendment 14 effectively eliminates one of those sectors and should be opposed.

Response: NMFS acknowledges the significant economic importance of Cook Inlet salmon resources and commercial fishing and processing to fishing communities. Section 4.5.5 of the Analysis presents detailed information about community engagement in the Cook Inlet salmon fishery, dependency, and fishery tax related revenue. NMFS disagrees that this action would effectively eliminate the drift gillnet fishery in Cook Inlet. As described in Section 4.5.2.3 of the Analysis, more than half of the annual average catch of the drift gillnet fleet occurs in State waters. While this action may have adverse impacts to the drift gillnet fleet operating in the EEZ, it is expected to provide continued harvest opportunities to the drift gillnet fleet within State waters and potentially increased harvest opportunities to all other harvesters within State waters.

Comment 36: Amendment 14 would disrupt the steady supply of fish over the summer which keeps the processing sector operating efficiently. By waiting for the fish to enter the proposed State waters corridor, the quality of the salmon is less than when harvested in the EEZ. This results in lower prices to the harvester and potentially less market value for the processor.

Response: NMFS acknowledges that this action may reduce processing efficiency and could result in lower prices in some circumstances. These considerations are described in Sections 4.5.4 and 4.5.5.2.2 of the Analysis. The potential impacts of these adverse conditions are presented in Section 4.7.1.4 of the Analysis.

Comment 37: It costs thousands of dollars to prepare for fishing each year. If the EEZ is closed the commenter

indicated they will have to look at cutting insurance or other expenses and take higher risks and that the harvest opportunities in state waters are not sufficient to keep a business going. Relatedly, some commenters indicated that they would be unable to make boat and permit payments under the conditions resulting from Amendment 14.

Response: The potential impacts of reduced revenues on harvesters are described in Sections 4.7.1.4 and 4.7.4.2 of the Analysis. This may include a reduction in active drift gillnet fleet size, as well as potential indirect adverse impacts to vessel maintenance and safety due to the potential for reduced revenues. The Analysis shows that the adverse economic impacts resulting from the only other viable management alternative (Alternative 3) were expected to be worse, due to increased uncertainty, significantly reduced or eliminated EEZ harvests, and additional regulatory expenses for monitoring, recordkeeping, and reporting.

NMFS disagrees that harvest opportunities in State waters are insufficient to support commercial fishing. Over half the drift gillnet harvest, and the entirety of the set gillnet harvest, currently occurs within State waters. This includes an average of $10.9 million in gross revenue just from State water drift gillnet harvest from 2009 to 2018, and an average of $12.6 million in gross revenue from the UCI set gillnet fishery sector over the same period. Participants can maintain or increase their participation within State waters, and the State may modify its management measures to account for the EEZ closure.

Comment 38: The UCI salmon fishery provides most of the funding for the Cook Inlet Aquaculture Association (CIAA). The loss of that funding as a result of Amendment 14 will force the CIAA to close, wiping out years of effort on salmon rehabilitation projects, closing all their hatchery and stocking programs, and more.

Response: NMFS acknowledges that if this action decreases harvests by commercial users in Cook Inlet, revenues to CIAA may be reduced, as noted in Section 4.7.1.4 of the Analysis. However, as summarized in the response to *Comment 35,* the majority of commercial salmon fishing in Cook Inlet is expected to continue.

Comment 39: I had planned for my retirement based on income from fishing and the sale of my limited entry salmon permit. Because of the State's mismanagement and the reallocation of salmon away from commercial fishermen my retirement nest egg is non-existent and the price of permits is very low. Amendment 14 will exacerbate these problems.

Response: Sections 4.5.3 and 4.6 provide a detailed description of the harvest and economic performance of the Cook Inlet drift gillnet salmon fishery sector including permit prices, as well as other Alaska salmon fisheries, over time. The Analysis shows that the performance of the Cook Inlet salmon fishery, as well as other Alaskan salmon fisheries, have varied significantly over time. No alternatives were expected to modify these cyclical trends, although NMFS determined that of the alternatives, Alternative 4 (Amendment 14) best facilitates management of the Cook Inlet salmon fishery by allowing for predictable, flexible management within State waters without additional management uncertainty.

Comment 40: All of our catch has been caught within the EEZ. Amendment 14 will have severe impacts and eliminate our ability to participate in the fishery.

Response: NMFS is aware and acknowledges that Amendment 14 may have more adverse impacts on participants unable or unwilling to relocate their fishing activity to State waters. As described in Section 4.7.1.4 of the Analysis, the impact of Amendment 14 will be proportional to the extent that participants rely on the EEZ for target fishing, and that the drift gillnet fleet may shrink as a result of reduced profitability.

Consistency With Other National Standards

Comment 41: Amendment 14 is a political decision not supported by the best scientific information available as required by National Standard 2 and the Magnuson-Stevens Act. One commenter cited a donation by a prominent sport fishing advocate to the governor as evidence.

Response: NMFS determined that Amendment 14 is consistent with National Standard 2. The Council's decision to recommend Amendment 14 and NMFS's decision to approve Amendment 14 and publish this final rule were supported by the Analysis, which contained the best available scientific information. The Council and NMFS considered and weighed all of the information available in making the decisions, including public testimony, to recommend and approve Amendment 14, respectively.

Comment 42: The Analysis did not use the best available information because it omits the dismal harvest in 2019 and the disastrous harvests in 2020. This information was available to NMFS and the Council but not used. This missing information was critical to the decision to close the fishery in the EEZ because much of the reduced harvest in 2019 and 2020 was the result of State closures of fishing opportunities in the EEZ. Restrictions on fishing in the EEZ in 2020, despite relatively high abundance of salmon returns, resulted in a fishery disaster with the average drift permit holder grossing only about $4,400 for the entire season. Complete closure of the EEZ will be far worse.

Response: The Analysis constitutes the best scientific information available. Final data from the 2019 and 2020 Cook Inlet salmon fishery was not available to analysts at the time of Council consideration. Consistent with the National Standard 2 guidelines (50 CFR 600.315(a)(6)(v)), mandatory management actions should not be delayed due to the promise of future data collection, nor should non-final data be introduced late into the Council decision-making process. That said, data now available on these seasons is summarized here.

The 2020 UCI commercial salmon fishery harvest and value was historically low. The total UCI drift gillnet harvest in 2020 was approximately 273,067 sockeye salmon, which was approximately 82 percent less than the previous 10-year average. The 2020 drift gillnet harvest of 47,689 coho salmon was 56 percent less than the previous 10-year average. The 2020 drift gillnet harvest of 25,223 chum salmon was approximately 84 percent lower than the previous 10-year average, while the pink salmon harvest was estimated to be 293,676 fish, or 40 percent higher than the 10-year even-year average. 2020 personal use fishery harvests of Cook Inlet salmon were approximately 11 percent below the 10-year average. Cook Inlet recreational salmon harvest data are not yet available for the 2020 season. Escapement for UCI salmon stocks in 2020 were mostly above or within established goal ranges for sockeye, chum and coho salmon, but were poor for Chinook salmon.

The total UCI drift gillnet harvest in 2019 was approximately 749,101 sockeye salmon, which was about 53 percent less than the average annual harvest from the previous 10 years. The 2019 drift gillnet harvest of 88,618 coho salmon was 17 percent less than the previous 10-year average harvest. The 2019 drift gillnet harvest of chum salmon was 112,518 and the pink salmon harvest was estimated to be approximately 27,607 fish. 2019 personal use fishery harvests of Cook Inlet salmon were 6 percent below the

10-year average. However, recreational salmon harvests were approximately 23 percent above the 10-year average, driven by some of the largest harvests on record for the Kenai mainstem and other Kenai drainages. Escapement for UCI salmon stocks in 2019 were mostly above or within established goal ranges for sockeye, chum and coho salmon, but were poor for Chinook salmon.

For both 2019 and 2020, the State took management action to avoid overfishing on weak stocks which also limited the commercial harvest of healthy stocks. Primarily, weak Kenai River Chinook salmon runs resulted in the State taking restrictive actions in the sport fishery and the Eastside set gillnet fishery (Upper Subdistrict). For the Eastside set gillnet fishery, this meant the State restricted fishing time to less than what can be allowed under State sockeye salmon management plans and imposed gear restrictions, both of which limited the ability of the set gillnet fishery to harvest additional sockeye salmon.

While the drift gillnet fleet realized lower than average catches in 2019 and 2020, the catch by other Cook Inlet salmon fishery sectors likely increased as a result. The 2019 and 2020 Northern District commercial coho salmon harvests were approximately 41 and 27 percent greater than the 10-year averages, respectively. In 2019, the Northern District harvest of sockeye salmon was approximately 89 percent greater than the 10 year average. The State suggested that increases in Northern District coho harvest may be due to less overall fishing time in the drift gillnet fishery because the State's management actions kept the drift gillnet fleet in the Expanded Corridors to target Kenai and Kasilof sockeye salmon and conserve Northern District coho salmon in July and August. For sockeye salmon, the State indicated that decreased fishing hours in the Central District by the drift gillnet fleet may have increased sockeye salmon abundance in the Northern District, where these fish are harvested by the Cook Inlet salmon fishery sectors in the Northern District. Similarly, decreases in harvest by the drift gillnet fleet may have also contributed to one of the highest Cook Inlet recreational salmon fishery sector harvests on record in 2019.

However, decreased fishing in the Central District can also increase escapements of sockeye salmon into the Kenai and Kasilof rivers, which occurred in 2019 and 2020. As described in Section 4.7.1.4 of the Analysis, NMFS notes that catch rates of Northern District salmon stocks, as well as Kenai River salmon stocks are generally higher in Federal waters, and it is unknown whether additional EEZ harvests by the drift gillnet fleet could have been allowed in these years without resulting in overfishing of weak stocks or limiting harvest opportunity in other Cook Inlet salmon fishery sectors.

Factors outside of the control of fishery managers were a significant contributor to reductions in harvest during these years. In 2020 sockeye salmon run timing was highly atypical, with the highest daily sockeye salmon passage recorded in August in the Kenai River, and the latest peak of sockeye salmon movement recorded. This meant abundances of sockeye salmon were relatively low during traditional peak fishing times. Further, the State had implemented low abundance sockeye salmon management plan provisions in combination with restrictive management measures to avoid overfishing late-run Chinook salmon. As discussed in the response to *Comment 24,* the State cited factors outside of the control of fishery managers and undetermined causes as the causes of the fishery disaster declaration request for UCI in 2020. NMFS notes that these variations would be particularly challenging to address through Federal management under Alternative 3, as harvest limits would be established preseason and there would be limited flexibility for NMFS to adapt them to rapidly changing conditions inseason. These challenges are described in Sections 2.5 and 4.7.1.3 of the Analysis.

In summary, drift gillnet harvests were significantly lower than average in 2019 and 2020. In both of these years, the drift gillnet fleet had relatively limited fishing time in the EEZ compared to historical conditions as they were limited by management measures required to conserve Northern District coho and sockeye salmon stocks. Catches of these stocks by Northern District fishery sectors did improve substantially for 2019, but were limited by weak stock management measures in 2020. Freshwater sport harvests in Kenai drainages were some of the highest on record in 2019, but data is not yet available for 2020. Personal use harvests were slightly lower but largely consistent with 10-year averages. The Eastside set gillnet fishery was significantly limited by weak Chinook salmon stock management considerations in both years and realized significantly reduced harvest as a result.

This information is largely consistent with conclusions presented in the Analysis. With limited fishing time in Federal waters, harvests by the drift gillnet fleet did decrease, while some other fishery sectors realized increases. Escapement of Kenai and Kasilof sockeye salmon stocks did increase above target ranges during these years, and while some of this increase is likely attributable to reduced drift gillnet harvest in Federal waters, management action required to prevent overfishing on Kenai river late-run Chinook salmon and conserve Northern District salmon stocks was a significant driver of constrained salmon harvests throughout the Cook Inlet salmon fishery during this period. Further, for the Kenai River late-run sockeye, record late run timing presented significant management challenges under the established management framework. NMFS notes that the limitations imposed by weak stock management and the challenges of unpredictable run timing would be exacerbated by the only other viable alternative considered by the Council and NMFS. This information is consistent with recent trends in fishery performance and the conclusions of the Analysis presented to the Council and reviewed by NMFS prior to making their decision on Amendment 14.

Comment 43: The best scientific information available shows that closure will have no appreciable conservation benefits.

Response: Of the viable management alternatives, NMFS determined that Amendment 14 takes the most precautionary approach to preventing overfishing and maximizes conservation and management benefits as detailed in the preamble to the proposed rule and as provided in the responses to *Comments* on *National Standards 1 and 3.*

Comment 44: Amendment 14 violates National Standard 4, which requires that all allocations not discriminate between residents of different states. Amendment 14 effectively allocates the entire fishery to the State. The State discriminates against out-of-state fishers, including the Alaska resident-only dipnet fishery that harvests hundreds of thousands of salmon per year to the detriment of other resource users. The Analysis points out that it is highly likely that closing the EEZ waters of Cook Inlet will reallocate fish resources from the drift gillnet fishery to the other Cook Inlet salmon fishery sectors.

Response: The State's management decisions regarding allocations among fishery sectors under State jurisdiction are State decisions that are outside the scope of this action. For the action under review, NMFS determined that Amendment 14 is consistent with National Standard 4. As summarized in

Section 4.7.1.4 of the Analysis, this action does not allocate or assign fishing privileges among commercial salmon fishery participants or other salmon fishery sectors, but it may result in changes in historical patterns of harvest between Cook Inlet fishery sectors. However, it is not possible to estimate the magnitude of the harvest benefits to these other fishery sectors because of the complexities of the Cook Inlet salmon fishery and intertwined State management plans.

Further, Amendment 14 does not discriminate between residents of different states. The closure of the Cook Inlet EEZ to commercial salmon fishing applies equally to all participants regardless of residency. As described in Section 4 of the Analysis, the majority of the salmon fishery within Cook Inlet, regardless of sector, has historically occurred within State waters.

Comment 45: Amendment 14 does not treat all Alaska stakeholders equitably. Amendment 14 unfairly discriminates against the drift gillnet fishery and has negative economic impacts on only the drift gillnet fleet. Nearly half of the drift gillnet fleet's harvest and income comes from the EEZ and it would be far more than half our harvest if we were allowed to fish there throughout the season.

Response: Amendment 14 and this final rule treat all stakeholders equitably. The drift gillnet fleet is the only commercial fishery sector and the only significant salmon harvester that operates in the Cook Inlet EEZ. As discussed in the response to *Comment 16,* NMFS only has authority to manage the portion of the Cook Inlet salmon fishery that occurs in the EEZ. This action applies equally to all participants in the Cook Inlet drift gillnet fishery in the EEZ regardless of residency.

NMFS analyzes the impact of management actions relative to existing conditions within the fishery. Historical conditions within the fishery are described in Section 4 of the Analysis.

Comment 46: NMFS should disapprove Amendment 14 because it turns all control of the fishery over to the State, which is inconsistent with the Magnuson-Stevens Act requiring all Federal fisheries be managed in the national interest.

Response: Amendment 14 and this final rule implements Federal management of the commercial salmon fishery within the Cook Inlet EEZ consistent with the national interest. With Amendment 14, the Council and NMFS are directly managing the commercial salmon fishery within the Cook Inlet EEZ and are not turning over control of the portion of the fishery that has occurred within the EEZ to the State. Of the viable alternatives, NMFS expects that Amendment 14 will maximize harvests consistent with conservation requirements in the State waters of Cook Inlet and that this action will not change net benefit to the nation. Further discussion of this is provided in the preamble to the proposed rule and the response to *Comment 19.*

The Council and NMFS may choose to revisit management of the Cook Inlet EEZ at any time if a management measure becomes available that will better achieve OY. Absent the conditions for preemption being met, which are described in the response to *Comment 16,* neither NMFS nor the Council would be able to modify management within State marine waters.

Comment 47: Amendment 14 was driven by the following Council policy: ''The Council's salmon management policy is to facilitate State of Alaska salmon management in accordance with the Magnuson-Stevens Act, Pacific Salmon Treaty, and applicable Federal law.'' The facilitation of State management is not a policy goal of the Magnuson-Stevens Act. The State's role is to participate through the Council process, not as a substitute for the Council.

Response: NMFS disagrees that the Council's salmon management policy is inconsistent with the Magnuson-Stevens Act. While the Magnuson-Stevens Act does not include this specific objective, a Council has broad discretion to adopt management policies that are consistent with the goals of Magnuson-Stevens Act, including achieving OY, preventing overfishing, and managing stocks as a unit throughout their range.

Comment 48: The Magnuson-Stevens Act gives NMFS the authority to manage anadromous species, including salmon, ''beyond the EEZ''. Amendment 14 fails to manage salmon within State waters as required by the Magnuson-Stevens Act.

Response: NMFS interprets ''beyond the EEZ'' as granting authority to manage anadromous species further than 200 nautical miles (nm) from shore, beyond sovereign jurisdictional limits, rather than within 3nm. Marine waters from the Alaskan coastline out to 3 nm are under State jurisdiction. Absent the conditions for preemption, NMFS does not have jurisdiction to manage fisheries, or fish stocks, within State marine waters. Under no circumstances does NMFS have jurisdiction to manage fisheries or fish stocks within State internal waters (*i.e.,* landward of the coastline).

Comment 49: The only thing standing in the way of resolving this issue is the State's refusal to accept MSY principles as outlined in the Magnuson-Stevens Act. The Ninth Circuit recognized this fact when ruling in favor of Cook Inlet fishermen and requiring Federal management of the Cook Inlet fishery.

Response: As detailed in the responses to *Comments 19* and *20,* MSY was appropriately considered when evaluating management alternatives to address the Ninth Circuit ruling and in the decision to approve Amendment 14.

The Ninth Circuit did not consider the whether State management of the Cook Inlet salmon fishery is consistent with the Magnuson-Stevens Act, as the State is not subject to the Magnuson-Stevens Act in its management of State salmon fisheries. Rather, the Ninth Circuit ruling required the portion of the Cook Inlet salmon fishery under Federal jurisdiction to be incorporated into the Salmon FMP.

Impacts on Marine Mammals

Comment 50: ADFG agrees with the conclusions included in the Analysis that Amendment 14 is not expected to result in a change to the incidental take level of marine mammals, including beluga whales, Steller sea lions, humpback whales, and fin whales, or have a significant impact on prey availability to these species.

Response: NMFS acknowledges this comment.

Comment 51: The State is concerned with NMFS's statement that prohibiting commercial salmon catch in the Cook Inlet EEZ Subarea under Alternative 4 could improve the density of salmon prey available to endangered Cook Inlet beluga whales present in northern Cook Inlet during the summer months as noted in Section 3.3.1.1 of the Analysis. Contrary to assertions by Norman *et al.* 2020, it is unlikely that salmon abundance is limiting beluga whale recovery in Cook Inlet, as the overall abundance of salmon in Cook Inlet largely remains at historical levels and therefore most likely is not driving the Cook Inlet beluga whale decline due to density dependence.

Response: NMFS acknowledges this comment.

Comment 52: NMFS should present the comparative conservation benefits and detriments for Cook Inlet beluga whales associated with a Federally managed salmon fishery in the EEZ.

Response: NMFS analyzed the impacts of each management alternative on Cook Inlet beluga whales in Section 3.3.1.1 of the Analysis. This section provides information and analysis on the impacts of each alternative on Cook Inlet beluga whales, including Alternative 3.

Comment 53: Salmon, particularly Chinook, are among the most important prey species for Cook Inlet beluga whales and prey availability is a known factor potentially limiting the recovery of Cook Inlet beluga whales. NMFS suggests that the impact of the proposed action on Cook Inlet beluga whale prey availability is uncertain. NMFS should describe relevant research on Cook Inlet salmon, especially Chinook. NMFS should also address the extent to which salmon fishery management in Cook Inlet is expressly accounting for beluga prey needs, or could be modified to do so. Additional attention to these factors might benefit Chinook populations and, in turn, the Cook Inlet beluga whale population. All this to say that details like place and species matter greatly in terms of importance for recovery.

Response: NMFS acknowledges that salmon, particularly Chinook, are important prey for Cook Inlet beluga whales. All of the action alternatives considered and examined in the Analysis were expected to maintain or increase salmon prey availability for Cook Inlet beluga whales. As described in Section 3.3 of the Analysis, the current level of fishery removals in Cook Inlet is not known to be a threat to Cook Inlet beluga whales, but there is uncertainty regarding beluga whale energetic needs. Significant changes in the abundance of salmon stocks are not expected under Amendment 14. This action would maintain salmon abundance at or above existing levels. Further, the drift gillnet fleet has *de minimis* catch of Chinook salmon which is not expected to increase as a result of this action, as stated in Section 3.1.4 of the Analysis. Therefore, additional information about Chinook salmon research is outside the scope of this action.

Additionally, the State must still meet all salmon escapement goals, plus maintain a harvestable surplus for in-river users, for all salmon stocks within Cook Inlet. Therefore, this action is not expected to reduce prey availability for Cook Inlet beluga whales.

Comment 54: NMFS should consider the potential for increased disturbance and displacement of beluga whales and salmon from Cook Inlet beluga whale critical habitat, including key foraging areas, and opportunities for NMFS to better conserve and recover beluga whales that could help inform future recovery efforts. The proposed action will concentrate the fleet into a smaller area, potentially causing new sources of disturbance and displacement of belugas. The same increased noise could also displace or disperse the salmon themselves. NMFS should assess whether the noise and commercial activities in new places that are triggered by its decision are likely to disturb and/or displace belugas from foraging areas.

Response: NMFS undertook a review of this action consistent with its requirements under section 7(a)(2) of the Endangered Species Act (ESA). The NMFS Protected Resources Division concurred that this action may affect, but is not likely to adversely affect, Cook Inlet beluga whales or their critical habitat. Based on the available data for Cook Inlet beluga whale distribution in the action area, the whales have not been recorded in recent years in the portions of the action area surrounding the Kenai and Kasilof Rivers during the most active part of the salmon drift gillnet fishing season from June to mid-August.

The fishing season duration is not expected to change as it is driven by the timing of the salmon runs. While drift gillnet effort may concentrate within certain areas of State waters, these areas minimally overlap with the range of Cook Inlet beluga whales during the salmon fishing season and no documented take of Cook Inlet beluga whales has occurred there, as described in Section 3.3.1.1 of the Analysis. Further, as noted in Section 4.7.1.4 of the Analysis, participation in the drift gillnet fishery could decline as a result of this action, which could result in fewer vessels on the fishing grounds during summer and less gear deployed.

As described in Sections 3.1.4 and 3.3.1.1 of the Analysis, decreased harvest of Northern District salmon stocks by the drift gillnet fleet as a result of the EEZ closure would increase availability of these stocks to other Cook Inlet salmon fishery sectors in Northern Cook Inlet and marine mammals that forage in Northern Cook Inlet, and could also potentially lead to higher salmon escapements in Northern Cook Inlet. NMFS does not expect overall salmon harvests or fishery activity to increase as the State must still achieve escapement goals. Salmon migration patterns or distribution are not expected to change as a result of this action.

NMFS does not expect that Cook Inlet beluga whales would be affected by any increase in vessel noise as a result of this action. Overall increases in vessel noise are not expected as a result of this action. Any incremental localized increase in noise as a result of this action would likely be immeasurably small given the high baseline level of vessel noise and activity throughout the inlet and the fact that most drift gillnet vessels already fish in State waters for a significant portion of the fishery. Thus, NMFS does not expect that the effects from potentially increased vessel noise on listed species could be measurable or detected, and therefore considers such effects to be insignificant.

Comment 55: In response to the proposed action, the State could open the Northern District to the drift gillnet fishery, particularly since it may be difficult for the fleet to maintain past harvest numbers otherwise. The Analysis should assess the impact of that reasonably likely reaction, which could place the fleet at the mouths of numerous additional rivers critical for beluga foraging, potentially resulting in far greater disturbance and displacement. NMFS's Biological Opinion should also assess this potential impact and NMFS should consider conditioning any jeopardy finding on the State agreeing to keep the Northern District closed—with consultation re-initiated upon any attempt to open it. If NMFS cannot require reinitiation of consultation in that event, then it should find jeopardy.

Response: NMFS completed informal consultation under section 7(a)(2) of the ESA regarding the potential impacts of Amendment 14 and determined that the action may affect, but is not likely to adversely affect, Cook Inlet beluga whales or their critical habitat. This action is not expected to result in the Northern District being opened to the drift gillnet fleet. Section 4.7.1.4 of the Analysis suggests that additional harvest opportunity for the drift gillnet fleet could be provided north of the EEZ line, but within the Central District where drift gillnet fishing already occurs there is no or minimal potential temporal overlap with Cook Inlet belugas during the fishing season. Existing commercial fishery restrictions within State regulations for the Central District, which minimize harvest of Northern District salmon stocks by Central District fishery sectors (*e.g.,* the drift gillnet fishery) and generally prohibit fishing near river mouths, are not modified by this action or expected to be changed as a result. Therefore, this action is not expected to increase disturbance or displacement of Cook Inlet belugas.

NMFS acknowledges that the State may change management measures for the Cook Inlet salmon fishery in State waters as a result of this action. Such changes may warrant reinitiating ESA section 7 consultation if there are effects of this action that may affect listed species or critical habitat in a manner or to an extent not previously considered.

Comments on the Development of Amendment 14

Comment 56: Multiple commenters felt that Amendment 14 is a punitive or unjust management solution. They suggested the Ninth Circuit ruling required the FMP to be amended, and that the Council and NMFS responded by punitively closing the fishery.

Response: NMFS disagrees that Amendment 14 is punitive. Amendment 14 implements the Ninth Circuit ruling by amending the Salmon FMP to include the Cook Inlet EEZ Subarea. The Analysis provides a comprehensive description of the purpose and need for this action, the management alternatives considered, and an analysis of their respective impacts. The Council and NMFS carefully evaluated costs and benefits of each management alternative and, of the two viable management alternatives, selected the alternative expected to minimize adverse impacts. NMFS provided its rationale in support of Amendment 14 in the preamble to the proposed rule.

Comment 57: The Council did not identify a preliminary preferred alternative until it made a final decision on Amendment 14, and withheld key information that the State was not willing to accept a delegated program until after the close of the Council's public comment period. This is contrary to the Council's published principles for stakeholder involvement that require the Council to make key information readily available to stakeholders to facilitate public input, before making a final recommendation to NMFS.

Response: All Council standard operating procedures and policies as well as Magnuson-Stevens Act procedural requirements were followed in the process of developing Amendment 14. All information considered by the Council and NMFS during the consideration of Amendment 14 was posted to the Council eAgenda and available to the public.

Selecting a preliminary preferred alternative is not a required step in the Council process. Closure of the EEZ was considered under Alternative 3 (Federal Management) where it could have been adopted as an inseason management measure, or a preseason decision, as described in Section 2.5 of the Analysis. At the October 2020 Council meeting, the State's representative on the Council expressed concerns about the existing alternatives, and the Council specifically chose to separate a proactive EEZ closure out of Alternative 3 to create Alternative 4 (Amendment 14) so it could be better analyzed and reviewed, as well as to give the public notice of its specific consideration. The Council's analysis of management alternatives for the Cook Inlet Salmon FMP amendment, including Alternative 4, was completed and publicly available more than three weeks (26 days) prior to the Council's consideration and final action at the December 2020 Council meeting. A total of 225 members of the public provided written comments or public testimony to the Council at that meeting.

NMFS did not have a predetermined policy position before the December 2020 meeting, consistent with substantive consideration of public comment, and had no role in the State's policy decision to decline delegated management authority (Alternative 2).

Comment 58: The Council heard from hundreds of fishermen and Alaskans who testified against the adoption of this EEZ closure proposal. Many believed none of the available alternatives provided a scientific or balanced management plan. Producing an amendment to the Salmon FMP that includes all of the Cook Inlet fishery, including State waters and the EEZ, is not an insurmountable task as NMFS and the Council have made it seem. It will however require that the agencies work with the stakeholders cooperatively instead of continuing their adversarial and unreceptive behavior. Stakeholders are asking that salmon management in Cook Inlet comply with the Federal law and the Magnuson-Stevens Act. We only want what the law already requires.

Response: NMFS is aware that many members of the public testified or commented to the Council and NMFS against adoption and approval of Amendment 14, as well as expressed dissatisfaction with all of the alternatives considered by the Council. Developing an FMP that optimizes conservation and management of Cook Inlet salmon stocks while complying with the Magnuson-Stevens Act and other applicable law, as well as successfully integrating with the highly complex and interdependent network of Cook Inlet salmon fishery sectors, is a challenging and controversial task.

Section 2 of the Analysis identifies the management alternatives considered by the Council and NMFS. This includes detailed discussion of the advantages and disadvantages of each approach. Sections 1 and 2 of the Analysis provide an overview of the requirements for amending the FMP, including consistency with the Magnuson-Stevens Act and Ninth Circuit decision.

The Council specifically considered the management recommendation developed by stakeholders on the Council's Salmon Committee. The Council did not choose to analyze this recommendation further because it proposed to apply Federal management measures within State waters, which is outside of Council and NMFS jurisdiction. More detail on the Salmon Committee recommendation and its consideration by the Council is presented in Section 2.7 of the Analysis.

Comment 59: Multiple commenters that participated in the Council consideration of the FMP amendment to address Cook Inlet asserted that the process to develop Amendment 14 was not fair or well considered. Specifically, commenters expressed concerns with the process, unfairness in consideration, conflicts of interest, perceived misdirection, the Council's perceived facilitation of the State's desired outcome of EEZ closure, and that there was insufficient notice and opportunity for public comment. One commenter requested that NMFS extend the comment period citing overlap with the drift gillnet fishing season in Cook Inlet. All of these commenters opposed approval of Amendment 14.

Response: Under the Magnuson-Steven Act, the Council is responsible for developing FMPs and FMP amendments, and stakeholders have an opportunity to express their opinions on the action and alternatives being considered. All Council standard operating procedures and policies as well as Magnuson-Stevens Act requirements were followed in developing Amendment 14, and all Council deliberations were open to the public and are part of the public record. Sufficient opportunity for public comment was provided throughout Council development of the action from 2017 through 2020. These opportunities occurred at public meetings noticed in the **Federal Register** as well as at regularly scheduled Council meetings. The Council took public testimony and considered written and oral public comments, providing stakeholders with consistent opportunities for involvement on this issue. In addition, the public was able to review and comment on analytical documents being developed by the Council during these same meetings.

Specific to the rulemaking for this action, the window to submit comments on the relevant **Federal Register** documents was from May 18, 2021, through July 19, 2021, which provided ample opportunity for comment outside of the fishing season and a large number of comments were received. Additionally, under the Magnuson-Stevens Act, a 60-day comment period

is required for proposed amendments to FMPs (16 U.S.C. 1854(a)(1)(B)), and NMFS does not have discretion to extend this statutorily-set comment period.

Comments on State Salmon Management

Comment 60: Cook Inlet salmon stocks were built up between 1970 and 1990 and there were enough fish for everyone. However, for more than 20 years the State has been systematically sabotaging the commercial fishing industry in Cook Inlet to benefit recreational and personal use fishery sectors. Year after year there have been a series of increasing restrictions on all the commercial fishermen, limiting the time and the area where we can fish. This fishery was once the second largest salmon fishery in the State, in terms of economic value, now we are having back-to-back disasters because of State mismanagement. Amendment 14 would exacerbate these problems.

Response: The conclusions in this comment regarding adverse impacts to Cook Inlet salmon stocks due to State management are not supported by available information. Sections 3 and 4 of the Analysis present information about returns of Cook Inlet salmon and fishery harvest over time with a brief summary provided here.

Salmon that return to Cook Inlet are harvested by numerous commercial and non-commercial fishery sectors. While the non-commercial fishery sectors have grown over time as the population of southcentral Alaska has grown, the claim that this growth has disadvantaged the commercial sector is not supported by available information. Commercial, recreational, and subsistence harvests have all generally increased and decreased in proportion to salmon abundance, as described in Sections 4.5 and 4.6 of the Analysis. From 2010 to 2014, revenues in the drift gillnet fishery were near or above long term averages, while more recent fishery performance has been consistent with earlier periods of lower revenues.

As shown in Sections 3.1, 4.5.2, and 4.6 of the Analysis, salmon abundance is cyclical and harvest fluctuates over time. Exact causes for poor salmon returns are variable and frequently involve a variety of factors outside the control of fishery managers to mitigate, including unfavorable ocean conditions, freshwater environmental factors, disease, or other likely factors on which data are limited or nonexistent. The ocean and freshwater environments are changing, and the impacts of those changes on salmon abundance are difficult to forecast because they, in turn, depend on somewhat uncertain forecasts of global climate as noted in Section 3.6.3 of the Analysis. Further, the decline in productivity for some stocks have required that managers implement measures to conserve them, which often reduces the harvest of healthy stocks. These conditions, and others outside the control of fishery managers, are cited as the cause of fishery disaster requests, which are described in greater detail in the response to *Comment 24.*

Regardless of the management alternative selected, the FMP is limited to implementing management measures within the EEZ. As explained in Sections 2 and 2.7 of the Analysis, NMFS generally has authority to manage only the fisheries that occur in the EEZ. The Magnuson-Stevens Act does not provide authority for the Council or NMFS to manage fisheries occurring predominately in State waters, which would be required for the Council to change escapement goals or to allocate more salmon to a specific user group.

Comment 61: The State, the Council, and NMFS have not updated commercial season openings and closures to coincide with changes in the timing of the runs of the several species of salmon in UCI. Sockeye salmon, for example, have been running later than in previous decades. ADFG nevertheless closed the commercial season in much of UCI on August 1, before significant numbers of sockeye salmon had run.

Response: NMFS evaluated the average harvest timing from 2009 to 2018 in Section 4.5.2 of the Analysis. While some recent years have had later run timing which has complicated management, there is significant variability in salmon run timing that is not predictable within and across salmon fishing seasons. This variability is particularly problematic for the relatively inflexible and data limited Federal management of a separate commercial salmon fishery in the Cook Inlet EEZ that would have been required under Alternative 3, the only other viable management approach. In contrast, under Amendment 14, State management has less uncertainty to account for, is more flexible, and can be more responsive to variability as the State can readily increase harvests inseason if realized run strength is greater than expected or more rapidly close the fishery in the event of a conservation concern.

Comment 62: State management of Cook Inlet salmon stocks has resulted in lost food production estimated to be at least 150 million meals, assuming a third of a pound per meal, because of wasted salmon and overescapement. This enormous loss of interstate commerce and national food production has occurred for years under the State's mismanagement. The State did nothing to relax its restrictions on the commercial fishermen in UCI to help the national need for nutritious food during the COVID–19 pandemic as meat packing plants, farms, and other closures of food production occurred throughout the nation.

Response: NMFS notes that food production is inclusive of commercial, recreational, and subsistence fishing. As described in the response to *Comment 19,* Amendment 14 is expected to achieve OY from the Cook Inlet salmon fishery.

Comments on Legal Issues

Comment 63: Amendment 14 fails to comply with any of the statutory requirements for closing a fishery. Under 16 U.S.C. 1853(b)(2)(C), an FMP may designate areas where all fishing is prohibited, but the FMP must ''ensure that such closure'':

(i) Is based on the best scientific information available;

(ii) includes criteria to assess the conservation benefit of the closed area;

(iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and

(iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: Users of the area, overall fishing activity, fishery science, and fishery and marine conservation.

Response: Amendment 14 does not constitute a closure that prohibits all fishing under 16 U.S.C. 1853(b)(2)(C). Amendment 14 closes the Cook Inlet EEZ to one salmon fishery sector. Under the Salmon FMP, recreational fishing can still occur in the Cook Inlet EEZ.

Comment 64: The fishery management Council system is unconstitutional because there is not sufficient discretion for appointed Council members to be removed from their positions.

Response: The constitutionality of the Magnuson-Stevens Act is outside the scope of this rulemaking, and NMFS has approved Amendment 14 and promulgated this final rule consistent with the requirements of the Magnuson-Stevens Act. NMFS continues to interpret the Magnuson-Stevens Act in a manner consistent with the Constitution, particularly because

NMFS retains significant discretion to reject Council recommendations.

Comment 65: Amendment 14 is not consistent with Alaska's authority under the Statehood Act.

Response: To the extent this comment is arguing State management is inconsistent with Federal law, that is outside the scope of this rulemaking. Alaska is not bound by the Magnuson-Stevens Act in its management of salmon in state waters, and NMFS does not have jurisdiction over state water fisheries under the Magnuson-Stevens Act absent preemption in accordance with section 306(b).

To the extent this comment is arguing the State's escapement-based management does not produce the greatest net benefits to the nation, NMFS disagrees. The Analysis demonstrates that the State's escapement-based management has historically consistently allowed harvest by all Cook Inlet salmon fishery sectors after accounting for limitations necessary to protect weaker stocks from overfishing. No management alternatives under consideration were expected to increase harvest levels above the status quo; in addition, NMFS determined that the alternative selected (Amendment 14) provides the greatest opportunity for maximum harvest from the Cook Inlet salmon fishery while minimizing the potential for overfishing and avoiding additional management uncertainty.

Comment 66: The Alaska resident only personal use fishery violates the Commerce Clause of the U.S. Constitution and is unconstitutional.

Response: This comment is outside the scope of Amendment 14.

Comment 67: This action is not consistent with the Alaska State Constitution (Art. 8, Sec. 15) that prohibits an exclusive right or special privilege of a fishery, as it may cause economic distress among fishermen and those dependent upon them for a livelihood.

Response: This action applies to the Federally managed waters of the EEZ and the Alaska State Constitution is therefore not applicable. Regardless, this action creates no exclusive right or privilege of fishery, and minimizes adverse economic impacts to the extent practicable as described in the Final Regulatory Flexibility Analysis (FRFA).

Changes From Proposed to Final Rule

There have been no substantive changes in this final rule to the regulatory text from the proposed rule. A title heading has been added to Figure 23 to 50 CFR part 679.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with Amendment 14 to the Salmon FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

NMFS prepared an environmental assessment (EA) for this action and the AA concluded that there will be no significant impact on the human environment as a result of this rule. This action closes a portion of the area open to the Cook Inlet drift gillnet fleet but will not result in significant changes to the Cook Inlet salmon fishery's total harvest, or result in other changes that would significantly impact the quality of the human environment. A copy of the EA is available from NMFS (see **ADDRESSES**).

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

A Regulatory Impact Review was prepared to assess costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended and NMFS approved Amendment 14 and these regulations based on those measures that maximize net benefits to the Nation. Specific aspects of the economic analysis are discussed below in the FRFA section.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' Copies of the proposed rule, this final rule, and the small entity compliance guide are available on the Alaska Region's website at: *https://www.fisheries.noaa.gov/region/alaska.*

Final Regulatory Flexibility Analysis

This FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS's responses to those comments, and a summary of the analyses completed to support the final rule.

Section 604 of the Regulatory Flexibility Act (RFA) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code (5 U.S.C. 553), after being required by that section or any other law to publish a general notice of final rulemaking, the agency shall prepare a FRFA (5 U.S.C. 604). Section 604 describes the required contents of a FRFA: (1) A statement of the need for and objectives of the rule; (2) a statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made to the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes including a statement of the factual, policy, and legal reasons for selecting the alternative adopted and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

A description of this final rule and the need for and objectives of this rule are contained in the preamble to the proposed rule (86 FR 29977, June 4, 2021) and final rule and are not repeated here.

Public and Chief Counsel for Advocacy Comments on the IRFA

An IRFA was prepared in the Classification section of the preamble to the proposed rule (86 FR 29977, June 4, 2021). The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule. NMFS received no comments specifically on the IRFA, but the majority of comments expressed concern about the potential economic impact of this action. No comments provided information that refuted the conclusions presented in the IRFA.

Number and Description of Small Entities Regulated by This Final Action

This final rule directly regulates holders of State of Alaska S03H Commercial Fisheries Entry Commission Limited Entry salmon permits (S03H permits). In 2021, 567 S03H permits were held by 502 individuals, all of which are considered small entities based on the $11 million threshold. Additional detail is included in Sections 4.5.3 and 4.9 in the Analysis prepared for this final rule (see **ADDRESSES**).

Recordkeeping, Reporting, and Other Compliance Requirements

This final rule does not add reporting or recordkeeping requirements for the vessels participating in the Cook Inlet salmon fishery. With the Cook Inlet EEZ closed to commercial salmon fishing, no recordkeeping or reporting requirements are needed. The NOAA Office of Law Enforcement and the State of Alaska Department of Public Safety would continue their existing enforcement activity in Cook Inlet under the revised West Area boundary resulting from this action to monitor and respond to any illegal commercial salmon fishing occurring in the Cook Inlet EEZ Subarea. Additional detail is provided in Section 4.7.2 of the Analysis.

Description of Significant Alternatives Considered to the Final Action That Minimize Adverse Impacts on Small Entities

The Council considered, but did not select three other alternatives. The alternatives, and their impacts to small entities, are described below.

Alternative 1 would take no action and would maintain existing management measures and conditions in the fishery within recently observed ranges, resulting in no change to impacts on small entities. This is not a viable alternative because it would be inconsistent with the Ninth Circuit's ruling that the Cook Inlet EEZ must be included within the Salmon FMP.

Alternative 2 would delegate management to the State. If fully implemented, Alternative 2 would maintain many existing conditions within the fishery. Fishery participants would have the added burdens of obtaining a Federal Fisheries Permit, maintaining a Federal fishing logbook, and monitoring their fishing position with respect to EEZ and State waters as described in Sections 2.4.8 and 4.7.2.2 of the Analysis. However, the State is unwilling to accept a delegation of management authority. Therefore, Alternative 2 is not a viable alternative.

Alternative 3 would result in a separate Cook Inlet EEZ drift gillnet salmon fishery managed independently by NMFS and the Council. Alternative 3 would increase direct costs and burden to S03H permit holders and fishery stakeholders due to requirements including a Federal Fisheries Permit, VMS, logbooks, and accurate GPS positioning equipment as described in Sections 2.5.7 and 4.7.2.2 of the Analysis. Alternative 3 would also require that a total allowable catch (TAC) be set before each fishing season. The TAC would be set conservatively relative to the status quo in order to reduce the risk of overfishing without the benefit of inseason harvest data. Commercial salmon harvest in the EEZ would be prohibited if the Council and NMFS do not project a harvestable surplus, with an appropriate buffer for the increased management uncertainty. Further, as described in Section 2.5.3 of the Analysis, gaps in data could also require closing the EEZ to commercial fishing in any given year. Finally, Alternative 3 would increase uncertainty each year for fishery participants in developing a fishing plan because NMFS would determine whether the Cook Inlet EEZ could be open to commercial fishing on an annual basis and shortly before the start of the fishing season.

As discussed, Alternative 3 would impose substantial direct regulatory costs on participants but would not be expected to result in consistent commercial salmon fishing opportunities in the Cook Inlet EEZ. Alternative 4 will include the Cook Inlet EEZ in the Salmon FMP for Federal management by NMFS and the Council, consistent with the Ninth Circuit ruling. Alternative 4 will close the Cook Inlet EEZ but not impose any additional direct regulatory costs on participants and will allow directly regulated entities to possibly recoup lost EEZ harvest inside State waters. As a result, Alternative 4 minimizes impacts to small entities.

Based upon the best available scientific data, and in consideration of the Council's objectives of this action, it appears that there are no significant alternatives to the final rule that have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the final rule on small entities. After the public process, the Council concluded that of the viable management alternatives, Alternative 4, Amendment 14, will best accomplish the stated objectives articulated in the preamble for the proposed rule, and in applicable statutes, and will minimize to the extent practicable adverse economic impacts on the universe of directly regulated small entities.

Collection-of-Information Requirements

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 26, 2021.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.2, under the definition of ''Salmon Management Area'':

■ a. Revise paragraph (2) introductory text; and

■ b. Remove and reserve paragraph (2)(i).

The revision reads as follows:

§ 679.2 Definitions.

* * * * *

Salmon Management Area * * *

(2) *The West Area* means the area of the EEZ off Alaska in the Bering Sea, Chukchi Sea, Beaufort Sea, and the Gulf of Alaska west of the longitude of Cape Suckling (143°53.6′ W), including the Cook Inlet EEZ Subarea, but excludes the Prince William Sound Area and the Alaska Peninsula Area. The Cook Inlet EEZ Subarea means the EEZ waters of Cook Inlet north of a line at 59°46.15′ N. The Prince William Sound Area and the Alaska Peninsula Area are shown in Figure 23 to this part and described as:

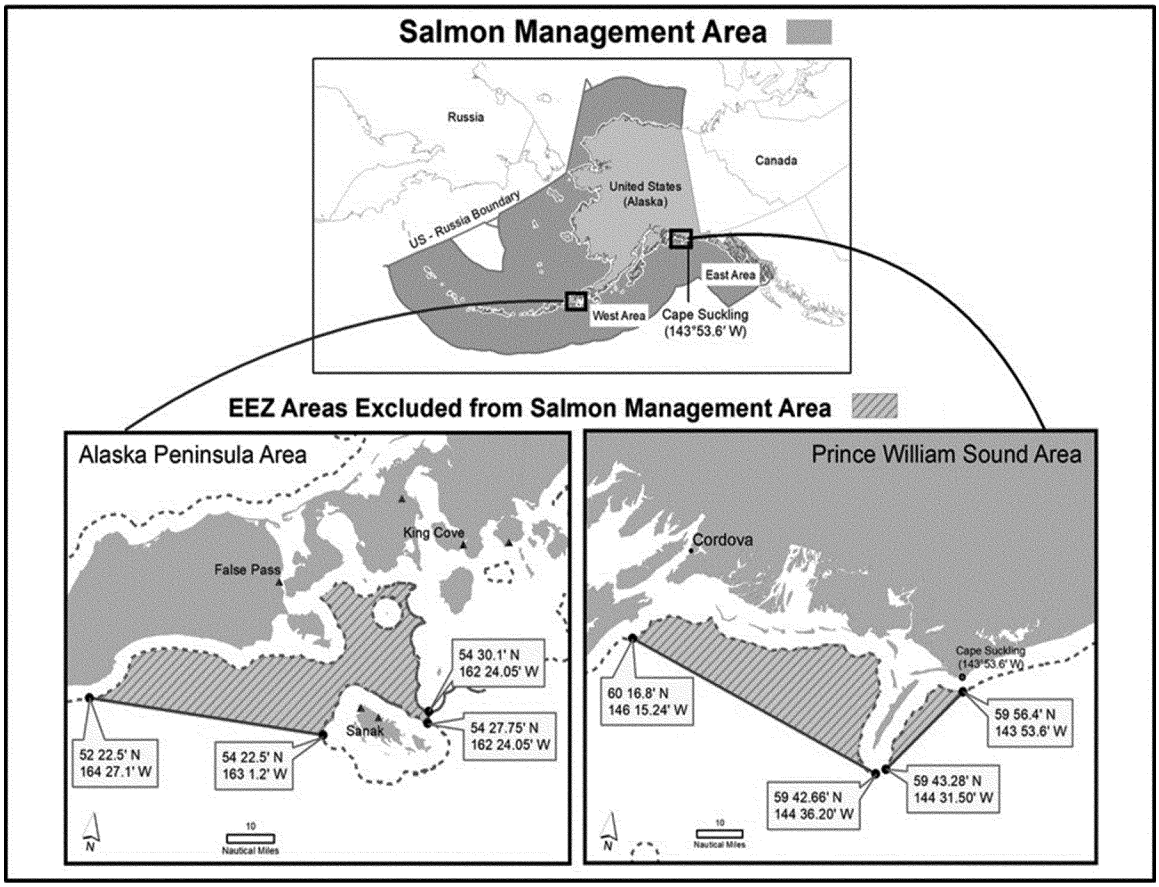
* * * * *

■ 3. Revise Figure 23 to part 679 to read as follows:

Figure 23 to Part 679—Salmon Management Area (see § 679.2)

BILLING CODE 3510–22–P

Figure 23 to part 679. Salmon Management Area



[FR Doc. 2021–23610 Filed 11–2–21; 8:45 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 86, No. 210
Wednesday, November 3, 2021

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1240

RIN 2590–AB18

Enterprise Regulatory Capital Framework—Public Disclosures for the Standardized Approach

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of proposed rulemaking: Request for comments.

SUMMARY: The Federal Housing Finance Agency (FHFA or the Agency) is seeking comments on a notice of proposed rulemaking (proposed rule) that would introduce new standardized approach disclosure requirements for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac, and with Fannie Mae, each an Enterprise), including disclosures related to regulatory capital instruments and risk-weighted assets calculated under the Enterprise Regulatory Capital Framework (ERCF).

DATES: Comments must be received on or before January 3, 2022.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AB18, by any one of the following methods:

- *Agency website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB18.
- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB18, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB18, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.

FOR FURTHER INFORMATION CONTACT: Andrew Varrieur, Senior Associate Director, Office of Capital Policy, (202) 649–3141, *Andrew.Varrieur@fhfa.gov;* Christopher Vincent, Senior Financial Analyst, Office of Capital Policy, (202) 649–3685, *Christopher.Vincent@fhfa.gov;* or James Jordan, Associate General Counsel, Office of General Counsel, (202) 649–3075, *James.Jordan@fhfa.gov.* These are not toll-free numbers. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

Comments

FHFA invites comments on all aspects of the proposed rule. Copies of all comments will be posted without change and will include any personal information you provide, such as your name, address, email address, and telephone number, on the FHFA website at *https://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public through the electronic rulemaking docket for this proposed rule also located on the FHFA website.

Table of Contents

I. Introduction

FHFA is seeking comments on new public disclosure requirements for the Enterprises. This proposed rule would expand the disclosure requirements set forth in the ERCF published in the **Federal Register** on December 17, 2020 (85 FR 82150) in order to improve market discipline and encourage sound risk-management practices through meaningful public disclosure.[1] With public disclosures that are clear, comprehensive, useful, consistent over time, and comparable across Enterprises, FHFA believes that market participants would have sufficient information to assess an Enterprise's material risks and capital adequacy, contributing to the safety and soundness of the Enterprises and decreasing risk to the U.S. taxpayers.

The proposed rule would implement standardized approach public disclosure requirements for the Enterprises that align with many of the public disclosure requirements for large banking organizations under the regulatory capital framework adopted by United States banking regulators (U.S. banking framework). Modern bank disclosure requirements were initially contemplated by the Basel Committee on Banking Supervision (BCBS) under

[1] In conservatorships, the Enterprises are supported by Senior Preferred Stock Purchase Agreements (PSPAs) between the U.S. Department of the Treasury (Treasury) and each Enterprise, through FHFA as its conservator (Fannie Mae's Amended and Restated Senior Preferred Stock Purchase Agreement with Treasury (September 26, 2008), *https://www.fhfa.gov/Conservatorship/Documents/Senior-Preferred-Stock-Agree/FNM/SPSPA-amends/FNM-Amend-and-Restated-SPSPA_09-26-2008.pdf;* Freddie Mac's Amended and Restated Senior Preferred Stock Purchase Agreement with Treasury (September 26, 2008), *https://www.fhfa.gov/Conservatorship/Documents/Senior-Preferred-Stock-Agree/FRE/SPSPA-amends/FRE-Amended-and-Restated-SPSPA_09-26-2008.pdf*). The PSPAs, as amended by letter agreements executed by the parties on January 14, 2021 (2021 Fannie Mae Letter Agreement, *https://home.treasury.gov/system/files/136/Executed-Letter-Agreement-for-Fannie-Mae.pdf;* 2021 Freddie Mac Letter Agreement, *https://home.treasury.gov/system/files/136/Executed-Letter-Agreement-for-Freddie%20Mac.pdf*), include a covenant at section 5.15 which states: ''[The Enterprise] shall comply with the Enterprise Regulatory Capital Framework [published in the **Federal Register** at 85 FR 82150 on December 17, 2020] disregarding any subsequent amendment or other modifications to that rule.'' Modifying that covenant will require agreement between the Treasury and FHFA under section 6.3 of the PSPAs.

Pillar 3 of Basel II in order to complement the minimum capital requirements and the supervisory review process and were later expanded with additional requirements in Basel III. In much the same way, the public disclosure requirements in the proposed rule would complement the ERCF as it aims to ensure that each Enterprise operates in a safe and sound manner and is positioned to fulfill its statutory mission to provide stability and ongoing assistance to the secondary mortgage market across the economic cycle, in particular during periods of financial stress.

Consistent with these stated objectives, and complementary to the Enterprises' statutory duties and purposes, the proposed rule would implement disclosure requirements related to risk management, corporate governance, and regulatory capital, including risk-weighted assets calculated under the ERCF's standardized approach, statutory capital requirements, supplemental capital requirements, and capital buffers. In contrast to U.S. banking organizations that are each either a standardized approach institution or an advanced approaches institution, an Enterprise is required to satisfy all requirements under both the standardized approach and the advanced approach in the ERCF, including any associated disclosure requirements. Therefore, the proposed rule adapts the public disclosure requirements in the U.S. banking framework to reflect the ERCF's standardized approach, blending elements from the U.S. banking framework's standardized and advanced approaches and establishing a level playing field for public disclosures between the Enterprises and large, domestic banking organizations. While the proposed rule would implement disclosure requirements for the ERCF's standardized approach only, FHFA may in the future consider additional disclosure requirements related to the advanced approaches. FHFA seeks comments on all elements of the proposed public disclosure requirements.

II. Proposed Disclosure Requirements

A. General Requirements

The proposed public disclosure requirements are designed to facilitate market discipline of the Enterprises. By allowing market participants to assess key information about an Enterprise's risk profile and its associated levels of capital, FHFA believes the proposed rule would encourage sound risk management practices and foster financial stability both during and after conservatorship. However, enhanced public disclosures would necessarily be somewhat costly for the Enterprises. With the proposed rule, FHFA aims to strike an appropriate balance between the market benefits of disclosure and the additional financial burden to an Enterprise that provides the disclosures. Importantly, an Enterprise may be able to fulfill some of the proposed disclosure requirements by relying on similar disclosures made in accordance with accounting standards or Securities and Exchange Commission (SEC) mandates. In addition, an Enterprise could use information provided in regulatory reports to fulfill the disclosure requirements. In these situations, an Enterprise would be required to explain any material differences between the accounting or other disclosures and the disclosures required under the proposed rule.

Market participants consider many factors when making their assessment of an Enterprise, including the Enterprise's risk profile and the techniques it uses to identify, measure, monitor, and control the risks to which the Enterprise is exposed. Accordingly, the proposed rule would require an Enterprise to have a formal disclosure policy approved by its board of directors that addresses the Enterprise's approach for determining which disclosures are necessary and appropriate. The policy would be required to address internal controls, disclosure controls, and procedures. The board of directors and senior management would ensure the appropriate review of the disclosures and that effective internal controls, disclosure controls, and procedures are maintained. One or more senior officers of the Enterprise would be required to attest that the disclosures meet the requirements of the proposed rule.

For items not explicitly identified in the proposed rule and in a manner similar to the requirements for U.S. banking organizations, an Enterprise would decide which additional disclosures are relevant based on a materiality concept. Information is material if its omission or misstatement could change or influence the assessment or decision of a user relying on that information for the purpose of making investment decisions. The materiality concept is designed to ensure that improvements in public disclosures come not only from regulatory standards, but also as a result of efforts made by management at the Enterprises to communicate advances in risk management processes and internal reporting systems to public shareholders and other market participants. Accordingly, FHFA encourages the management of each Enterprise to regularly review its public disclosures and enhance these disclosures, where appropriate, to clearly identify all significant risk exposures and their effects on the Enterprise's financial condition and performance, cash flow, and earnings potential.

Question 1: What additional general disclosure requirements should FHFA consider, and why?

B. Standardized Approach

The standardized approach disclosures in the proposed rule are described across eleven categories, each detailing qualitative disclosures, quantitative disclosures, or both. The categories are: (1) Capital structure; (2) capital adequacy; (3) capital buffers; (4) credit risk: General disclosures; (5) general disclosure for counterparty credit risk-related exposures; (6) credit risk mitigation; (7) credit risk transfers (CRT) and securitization; (8) equities; (9) interest rate risk for non-trading activities; (10) operational risk; and (11) tier 1 leverage ratio. Many of the disclosures described within the categories are identical to the disclosures applicable to U.S. banking organizations subject to the standardized approach. Others have been modified to reflect the ERCF, such as those referring to statutory core capital and statutory total capital, adjusted total capital, the prescribed capital conservation buffer amount (PCCBA), and CRT. In addition, FHFA has excluded several disclosure items that are included in the U.S. banking framework for activities or categorizations not relevant in the ERCF, such as exposures to foreign banks, statutory multifamily mortgages, and high volatility commercial real estate (HVCRE).

The standardized approach in the ERCF differs broadly from the U.S. banking standardized approach in its inclusion of risk-weighted assets for operational risk and market risk, in its application of capital buffers, and in its application of leverage ratio requirements. In contrast to capital requirements for banking organizations subject to the standardized approach in the U.S. banking framework, the standardized approach in the ERCF requires an Enterprise to capitalize operational and market risks, to apply every component of the PCCBA including the countercyclical capital buffer, and to apply the same leverage ratio requirements and prescribed leverage buffer amount (PLBA) regardless of approach. Accordingly, the

proposed rule would require an Enterprise to publicly disclose qualitative and quantitative information related to these items in the standardized approach. The proposed rule's disclosure requirements for market risk are described in section II.C.

Several of the proposed rule's qualitative disclosure requirements for operational risk pertain to the advanced measurement approach (AMA). These disclosures would include a description of the AMA, as well as a discussion of relevant internal and external factors considered in the Enterprise's measurement approach. Because the Enterprises are not required to implement the AMA approach until at least January 1, 2025, FHFA would expect the AMA-related disclosures to begin at the same time. Until then, and after as well, the Enterprises are subject to an operational risk capital requirement floor of 15 basis points of adjusted total assets.

Advanced approaches banking organizations must disclose information related to total leverage exposure (TLE) and the supplementary leverage ratio, while standardized approach banking institutions are not required to do so. The ERCF analog to the concept of TLE is adjusted total assets, and the analog to the concept of the supplementary leverage ratio is the tier 1 leverage ratio. In contrast to the U.S. banking framework, the ERCF tier 1 leverage ratio requirement is the same for an Enterprise operating under the standardized or advanced approaches. For this reason, FHFA is including the leverage disclosure category within the standardized approach section of the ERCF.

Many of the disclosure requirements for the standardized approach are also applicable to the advanced approach. For example, the disclosure items described within the categories for capital structure, PCCBA, PLBA, operational risk, and leverage would not differ conditional on whether an Enterprise's total risk-weighted assets are higher under the standardized approach or the advanced approach. Because these items are applicable to the standardized approach, the proposed rule includes them. In contrast, the proposed rule excludes disclosure requirements specific to the advanced approaches such as the amount of credit risk-weighted assets calculated using an Enterprise's internal models.

C. Market Risk

The proposed rule includes market risk disclosure requirements for covered positions under the standardized approach. These requirements include a formal disclosure policy approved by the board of directors that addresses the Enterprise's approach for determining its market risk disclosures. The policy would address the associated internal controls and disclosure controls and procedures and would contain requirements related to the verification and attestation of disclosures and the ongoing maintaining of effective controls and procedures. The requirements would also include quarterly quantitative disclosures for each material portfolio of covered positions related to exposure and risk-weighted asset amounts as well as the aggregate amount of on-balance sheet and off-balance sheet securitization positions by exposure type.

In addition, an Enterprise would be required to make annual public disclosures for each material portfolio of covered positions related generally to portfolio composition and valuation policies, procedures, and methodologies. These disclosures would include, among other things, key valuation assumptions and information on significant changes, model characteristics used to calculate risk-weighted assets for market risk, and a description of the approaches used for validating and evaluating the accuracy of internal models and modeling processes. In addition, the annual disclosures would include a description of the Enterprise's processes for monitoring changes in the credit and market risk of securitization positions and a description of the Enterprise's policy governing the use of credit risk mitigation to mitigate the risks of securitization and resecuritization positions.

III. Frequency of Disclosures

The proposed rule would require the Enterprises to make quantitative disclosures on a quarterly basis, consistent with the disclosure requirements for most regulated financial institutions and frequently enough to capture most changes in risk profiles. However, qualitative disclosures that provide a general summary of an Enterprise's risk-management objectives and policies, reporting system, and definitions may be disclosed annually, provided any significant changes are disclosed in the interim.

The proposed rule would also require that the disclosures are timely. As described above, an Enterprise may be able to fulfill some of the proposed disclosure requirements by relying on similar disclosures made in accordance with accounting standards or SEC mandates. FHFA acknowledges that timing of disclosures required under other federal laws, including disclosures required under the federal securities laws and their implementing regulations by the SEC, may not always align with the timing of required Enterprise disclosures. For calendar quarters that do not correspond to fiscal year-end, FHFA would consider those disclosures that are made within 45 days as timely. In general, where an Enterprise's fiscal year-end coincides with the end of a calendar quarter, FHFA would consider disclosures to be timely if they are made no later than the applicable SEC disclosure deadline for the corresponding Form 10–K annual report. In cases where an Enterprise's fiscal year-end does not coincide with the end of a calendar quarter, FHFA would consider the timeliness of disclosures on a case-by-case basis. In some cases, management may determine that a significant change has occurred, such that the most recent reported amounts do not reflect the Enterprise's capital adequacy and risk profile. In those cases, an Enterprise would need to disclose the general nature of these changes and briefly describe how they are likely to affect public disclosures going forward. An Enterprise would make these interim disclosures as soon as practicable after the determination that a significant change has occurred.

IV. Compliance Period

The standardized approach disclosure requirements in the proposed rule would promote market discipline and prudent risk management practices at the Enterprises regardless of the conservatorship status of either Enterprise. Therefore, an Enterprise's compliance date for the disclosure requirements outlined in the proposed rule would be six months from the date of publication of the final rule in the **Federal Register**.

The proposed rule would also amend the reporting requirement compliance dates in § 1240.4(b) to remove references to parts of the ERCF that do not contain reporting requirements. Specifically, the proposed rule would remove references to compliance dates for reporting requirements in subparts C and G of 12 CFR 1240, §§ 1240.162(d) and 1240.204, as these parts do not contain reporting requirements. The proposed rule would retain without modification the January 1, 2022 compliance dates for reporting requirements outlined in §§ 1240.1(f) and 1240.41.

V. Location of Disclosures and Audit Requirements

The proposed rule would require an Enterprise to ensure that required disclosures are publicly available (for example, included on a public website) for each of the last three years or such shorter time period beginning when the proposed rule, if adopted as a final rule, comes into effect. In general, management of an Enterprise would have some discretion to determine the appropriate medium and location of the disclosures, provided the Enterprise meets the requirements related to cross-referencing described below. Furthermore, an Enterprise would have flexibility in formatting its public disclosures unless otherwise ordered by FHFA under its general authority to follow specific reporting guidelines or procedures, including potentially utilizing specified templates for certain quantitative disclosure elements. For example, FHFA may determine that standardizing the way the Enterprises present a subset of the required quantitative disclosures would facilitate the ability of market participants to compare attributes or results across Enterprises and better assess the risk profile and capital adequacy of each Enterprise. Conversely, there may be aspects of the required disclosures that cannot easily be standardized or where comparison across Enterprises may be less meaningful to market participants, such as descriptions of an Enterprise's risk management practices or certain analyses that contain bespoke risk metrics.

FHFA encourages each Enterprise to make all required disclosures available in one place on the Enterprise's public website, the address of which should be communicated in the Enterprise's regulatory report. However, the proposed rule would permit an Enterprise to provide the disclosures in more than one place, such as in its public financial reports (for example, in Management's Discussion and Analysis included in SEC filings) or other regulatory reports, as long as the Enterprise also provides a summary table on its public website that specifically indicates where all the disclosures may be found (for example, regulatory report schedules, page numbers in annual reports).

The proposed rule would require an Enterprise to reconcile disclosures of regulatory capital elements as the elements relate to an Enterprise's balance sheet in any audited consolidated financial statements. However, disclosures not included in the footnotes to the audited financial statements would not be subject to external audit reports for financial statements or internal control reports from management and the external auditor. Under the proposed rule, the audit requirements for an Enterprise's required public disclosures would be identical to the audit requirements for a banking organization's required public disclosures in the U.S. banking framework.

VI. Proprietary and Confidential Information

FHFA believes that the proposed disclosure requirements strike an appropriate balance between the need for meaningful disclosure and the protection of proprietary and confidential information. Accordingly, FHFA believes that an Enterprise would be able to provide all these disclosures without revealing proprietary and confidential information. Only in rare circumstances might disclosure of certain items of information required by the proposed rule compel an Enterprise to reveal confidential and proprietary information. In these unusual situations, FHFA proposes that if an Enterprise believes that disclosure of specific commercial or financial information would compromise its position by making public information that is either proprietary or confidential in nature, the Enterprise need not disclose those specific items. Instead, the Enterprise must disclose more general information about the subject matter of the requirement, together with the fact that, and the reason why, the specific items of information have not been disclosed. This provision would apply only to those disclosures included in this proposed rule and does not apply to disclosure requirements imposed by accounting standards or other regulatory agencies.

Question 2: In terms of proprietary and confidential information, are any of the proposed disclosure requirements problematic, and why?

VII. Specific Public Disclosure Requirements

The public disclosure requirements are designed to provide important information to market participants on capital, risk exposures, risk assessment processes, and, thus, the capital adequacy of an Enterprise. The substantive content of the tables in the proposed rule is the focus of the disclosure requirements, not the tables themselves.

An Enterprise would make the disclosures described in tables 1 through 11 to proposed § 1240.63 and market risk disclosures described in proposed § 1240.205. The Enterprise would make these disclosures publicly available for each of the last three years or such shorter time period beginning when the proposed requirements come into effect.

Table 1 disclosures, ''Capital Structure,'' would provide summary information on the terms and conditions of the main features of regulatory capital instruments, which would allow for an evaluation of the quality of the capital available to absorb losses within an Enterprise. An Enterprise also would disclose the total amount of common equity tier 1, core, tier 1, total, and adjusted total capital, with separate disclosures for deductions and adjustments to capital.

Table 2 disclosures, ''Capital Adequacy,'' would provide information on an Enterprise's approach for categorizing and risk-weighting its exposures, as well as the amount of total risk-weighted assets. The table would also include common equity tier 1, tier 1, and adjusted total risk-based capital ratios.

Table 3 disclosures, ''Capital Buffers,'' would require an Enterprise to disclose the prescribed capital conservation buffer amount, the prescribed leverage buffer amount, eligible retained income, and any limitations on capital distributions and certain discretionary bonus payments, as applicable.

Tables 4, 5, and 6 disclosures, related to credit risk, counterparty credit risk, and credit risk mitigation, respectively, would provide market participants with insight into different types and concentrations of credit risk to which an Enterprise is exposed and the techniques it uses to measure, monitor, and mitigate those risks. These disclosures are intended to enable market participants to assess the credit risk exposures of the Enterprise without revealing proprietary information.

Table 7 disclosures, ''CRT and Securitization,'' would provide information to market participants on the amount of credit risk transferred and retained by an Enterprise through CRT and securitization transactions, the types of products securitized by the Enterprise, the risks inherent in the Enterprise's securitized assets, the Enterprise's policies regarding credit risk mitigation, and the names of any entities that provide external credit assessments of a securitization. These disclosures would provide a better understanding of how securitization transactions impact the credit risk of an Enterprise. For purposes of these disclosures, ''exposures securitized'' include underlying exposures originated by an Enterprise, whether generated by

the Enterprise or purchased from third parties, and third-party exposures included in sponsored programs. Securitization transactions in which the originating Enterprise does not retain any securitization exposure would be shown separately and would only be reported for the year of inception.

Table 8 disclosures, ''Equities,'' would provide market participants with an understanding of the types of equity securities held by the Enterprise and how they are valued. The table would also provide information on the capital allocated to different equity products and the amount of unrealized gains and losses. (In comparison with bank holding companies subject to the Federal Reserve Board's Regulation Q, on which this proposed regulation is based, the types of equity securities that may be held by the Enterprises are limited. Their capital treatment is governed by 12 CFR 1240.51 and 1240.52.)

Table 9 disclosures, ''Interest Rate Risk for Non-trading Activities,'' would require an Enterprise to provide certain quantitative and qualitative disclosures regarding the Enterprise's management of interest rate risks.

Table 10 disclosures, ''Operational Risk,'' would require an Enterprise to provide certain qualitative disclosures regarding the advanced measurement approach, when applicable, and a description of the use of insurance for the purpose of mitigating operational risk. These disclosures would include a description of the AMA, as well as a discussion of relevant internal and external factors considered in the Enterprise's measurement approach.

Table 11 disclosures, ''Tier 1 Leverage Ratio,'' would provide information related to an Enterprise's adjusted total assets, including adjustments for fiduciary assets, derivative exposures, repo-style transactions, and off-balance sheet exposures. The table would also include an Enterprise's tier 1 leverage ratio. These disclosures are intended to enable market participants to assess the aggregate exposure to risk at an Enterprise and to consider that risk against the Enterprise's capital backstop.

The market risk disclosures would provide quantitative and qualitative information related to an Enterprise's market risk profile, market risk valuation strategies, internal controls, and disclosure controls and procedures. The quantitative disclosures would detail exposure amounts and risk-weighted assets for material portfolios of covered positions, as well as on-balance sheet and off-balance sheet securitization positions by exposure type.

Question 3: Should FHFA consider any additional specific public disclosure requirements?

Question 4: Should FHFA consider requiring additional disclosures pertaining to the single-family countercyclical adjustment?

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) requires that regulations involving the collection of information receive clearance from the Office of Management and Budget (OMB). The proposed rule contains no such collection of information requiring OMB approval under the PRA. Therefore, no information has been submitted to OMB for review.

IX. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. FHFA need not undertake such an analysis if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act. FHFA certifies that the proposed rule, if adopted as a final rule, would not have a significant economic impact on a substantial number of small entities because the proposed rule is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

Proposed Rule

List of Subjects for 12 CFR Part 1240

Capital, Credit, Enterprise, Investments, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated in the Preamble, under the authority of 12 U.S.C. 4511, 4513, 4513b, 4514, 4515–17, 4526, 4611–4612, 4631–36, FHFA proposes to amend part 1240 of title 12 of the Code of Federal Regulation as follows:

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

SUBCHAPTER C—ENTERPRISES

PART 1240—CAPITAL ADEQUACY OF ENTERPRISES

■ 1. The authority citation for part 1240 is revised to read as follows:

Authority: 12 U.S.C. 4511, 4513, 4513b, 4514, 4515, 4517, 4526, 4611–4612, 4631–36.

■ 2. Amend § 1240.4 by revising paragraph (b) to read as follows:

§ 1240.4 Transition.

* * * * *

(b) *Reporting Requirements.* (1) For any reporting requirement under § 1240.1(f) or 1240.41, the compliance date will be January 1, 2022.

(2) For any reporting requirement under §§ 1240.61 through 1240.63, the compliance date will be six months from the date of publication of the final rule for §§ 1240.61 through 1240.63 in the **Federal Register**.

(3) For any reporting requirement under § 1240.205, the compliance date will be six months from the date of publication of the final rule for § 1240.205 in the **Federal Register**.

* * * * *

■ 3. Add §§ 1240.61 through 1240.63 to Subpart D to read as follows:

Subpart D—Risk-Weighted Assets—Standardized Approach

* * * * *

Risk-Weighted Assets for Standardized Approach Disclosures

§ 1240.61 Purpose and scope.

Sections 1240.61 through 1240.63 of this subpart establish public disclosure requirements related to the capital requirements described in subpart B.

§ 1240.62 Disclosure requirements.

(a) An Enterprise must provide timely public disclosures each calendar quarter of the information in the applicable tables in § 1240.63. If a significant change occurs, such that the most recent reported amounts are no longer reflective of the Enterprise's capital adequacy and risk profile, then a brief discussion of this change and its likely impact must be disclosed as soon as practicable thereafter, and no later than the end of the next calendar quarter. Qualitative disclosures that have not changed from the prior quarter (for example, a general summary of the Enterprise's risk management objectives and policies, reporting system, and definitions) may be omitted from the next quarterly disclosure, but must be disclosed at least annually after the end

of the fourth calendar quarter. Unless otherwise directed by FHFA, the Enterprise's management may provide all of the disclosures required by §§ 1240.61 through 1240.63 in one place on the Enterprise's public website or may provide the disclosures in more than one public financial report or other regulatory reports, provided that the Enterprise publicly provides a summary table specifically indicating the location(s) of all such disclosures.

(b) An Enterprise must have a formal disclosure policy approved by the board of directors that addresses its approach for determining the disclosures it makes. The policy must address the associated internal controls and disclosure controls and procedures. The board of directors and senior management are responsible for establishing and maintaining an effective internal control structure over financial reporting, including the disclosures required by this subpart, and must ensure that appropriate review of the disclosures takes place. The Chief Risk Officer and the Chief Financial Officer of the Enterprise must attest that the disclosures meet the requirements of this subpart.

(c) If an Enterprise concludes that specific commercial or financial information that it would otherwise be required to disclose under this section would be exempt from disclosure by FHFA under the Freedom of Information Act (5 U.S.C. 552), then the Enterprise is not required to disclose that specific information pursuant to this section, unless otherwise directed by FHFA to amend the disclosure, but must disclose more general information about the subject matter of the requirement, together with the fact that, and the reason why, the specific items of information have not been disclosed.

(d) An Enterprise must publicly disclose each quarter its tier 1 leverage ratio and the components thereof (that is, tier 1 capital and adjusted total assets) as calculated under subpart B of this part beginning with the calendar quarter immediately following the quarter in which this § 1240.62 becomes effective, if adopted as a final rule.

§ 1240.63 Disclosures.

(a) Except as provided in § 1240.62, an Enterprise must make the disclosures described in Tables 1 through 11 of this section publicly available for each of the last three years (that is, twelve quarters) or such shorter period until an Enterprise has made twelve quarterly disclosures pursuant to this part beginning on *Month Day Year.*

(b) An Enterprise must publicly disclose each quarter the following:

(1) Regulatory capital ratios for common equity tier 1 capital, additional tier 1 capital, tier 1 capital, tier 2 capital, total capital, core capital, and adjusted total capital, including the regulatory capital elements and all the regulatory adjustments and deductions needed to calculate the numerator of such ratios;

(2) Total risk-weighted assets, including the different regulatory adjustments and deductions needed to calculate total risk-weighted assets; and

(3) A reconciliation of regulatory capital elements as they relate to its balance sheet in any audited consolidated financial statements.

TABLE 1 TO PARAGRAPH (b)(3): CAPITAL STRUCTURE

Qualitative Disclosures	(a) Summary information on the terms and conditions of the main features of all regulatory capital instruments.
Quantitative Disclosures	(b) The amount of common equity tier 1 capital, with separate disclosure of: (1) Common stock and related surplus; (2) Retained earnings; (3) AOCI (net of tax) and other reserves; and (4) Regulatory adjustments and deductions made to common equity tier 1 capital. (c) The amount of core capital, with separate disclosure of: (1) The par or stated value of outstanding common stock; (2) The par or stated value of outstanding perpetual, noncumulative preferred stock; (3) Paid-in capital; and (4) Retained earnings. (d) The amount of tier 1 capital, with separate disclosure of: (1) Additional tier 1 capital elements, including additional tier 1 capital instruments and tier 1 minority interest not included in common equity tier 1 capital; and (2) Regulatory adjustments and deductions made to tier 1 capital. (e) The amount of total capital, with separate disclosure of: (1) The general allowance for foreclosure losses; and (2) Other amounts from sources of funds available to absorb losses incurred by the Enterprise that the Director by regulation determines are appropriate to include in determining total capital. (f) The amount of adjusted total capital, with separate disclosure of: (1) Tier 2 capital elements, including tier 2 capital instruments; and (2) Regulatory adjustments and deductions made to adjusted total capital.

TABLE 2 TO PARAGRAPH (b)(3): CAPITAL ADEQUACY

Qualitative disclosures	(a) A summary discussion of the Enterprise's approach to assessing the adequacy of its capital to support current and future activities.
Quantitative disclosures	(b) Risk-weighted assets for: (1) Exposures to sovereign entities; (2) Exposures to certain supranational entities and MDBs; (3) Exposures to GSEs; (4) Exposures to depository institutions and credit unions; (5) Exposures to PSEs; (6) Corporate exposures; (7) Aggregate single-family mortgage exposures categorized by: (i) Performing loans; (ii) Non-modified re-performing loans; (iii) Modified re-performing loans;

TABLE 2 TO PARAGRAPH (b)(3): CAPITAL ADEQUACY—Continued

	(iv) Non-performing loans; (8) Aggregate multifamily mortgage exposures categorized by: (i) Multifamily fixed-rate exposures; (ii) Multifamily adjustable-rate exposures; (9) Past due loans; (10) Other assets; (11) Insurance assets; (12) Off-balance sheet exposures; (13) Cleared transactions; (14) Default fund contributions; (15) Unsettled transactions; (16) CRT and other securitization exposures; and (17) Equity exposures. (c) Standardized market risk-weighted assets as calculated under subpart F of this part. (d) Risk-weighted assets for operational risk. (e) Common equity tier 1, tier 1, and adjusted total risk-based capital ratios. (f) Total standardized risk-weighted assets.

TABLE 3 TO PARAGRAPH (b)(3): CAPITAL BUFFERS

Qualitative disclosures	(a) A summary discussion of the Enterprise's capital buffers and the differential effects, if any, the buffers have on an Enterprise's business by geographic breakdown.[1]
Quantitative Disclosures	(b) At least quarterly, the Enterprise must calculate and publicly disclose the prescribed capital conservation buffer amount and all its components as described under § 1240.11. (c) At least quarterly, the Enterprise must calculate and publicly disclose the prescribed leverage buffer amount as described under § 1240.11. (d) At least quarterly, the Enterprise must calculate and publicly disclose the eligible retained income of the Enterprise, as described under § 1240.11. (e) At least quarterly, the Enterprise must calculate and publicly disclose any limitations it has on distributions and discretionary bonus payments resulting from the capital buffer framework described under § 1240.11, including the maximum payout amount for the quarter.

[1] The geographic breakdown must consist of areas within the United States and territories.

(c) For each separate risk area described in Tables 4 through 9, the Enterprise must, as a general qualitative disclosure requirement, describe its risk management objectives and policies, including: Strategies and processes; the structure and organization of the relevant risk management function; the scope and nature of risk reporting and/or measurement systems; policies for hedging and/or mitigating risk and strategies and processes for monitoring the continuing effectiveness of hedges/mitigants.

TABLE 4 TO PARAGRAPH (c): [1] CREDIT RISK: GENERAL DISCLOSURES

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to credit risk (excluding counterparty credit risk disclosed in accordance with Table 5 of this section), including the: (1) Policy for determining past due or delinquency status; (2) Policy for placing loans on nonaccrual; (3) Policy for returning loans to accrual status; (4) Description of the methodology that the Enterprise uses to estimate its adjusted allowance for credit losses, including statistical methods used where applicable; (5) Policy for charging-off uncollectible amounts; and (6) Discussion of the Enterprise's credit risk management policy.
Quantitative Disclosures	(b) Total credit risk exposures and average credit risk exposures, after accounting offsets in accordance with GAAP, without taking into account the effects of credit risk mitigation techniques (for example, collateral and netting not permitted under GAAP), over the period categorized by major types of credit exposure. For example, the Enterprises could use categories similar to that used for financial statement purposes. Such categories might include, for instance. (1) Loans, off-balance sheet commitments, and other non-derivative off-balance sheet exposures; (2) Debt securities; and (3) OTC derivatives. (c) Geographic distribution of exposures, categorized in significant areas by major types of credit exposure.[2] (d) Industry or counterparty type distribution of exposures, categorized by major types of credit exposure. (e) By major industry or counterparty type: (1) Amount of loans not past due or past due less than 30 days; (2) Amount of loans past due 30 days but less than 90 days; (3) Amount of loans past due 90 days and on nonaccrual; (4) Amount of loans past due 90 days and still accruing; [3] (5) The balance in the adjusted allowance for credit losses at the end of each period, disaggregated on the basis of loans not past due or past due less than 30 days, loans past due 30 days but less than 90 days, loans past due 90 days and on nonaccrual, and loans past due 90 days and still accruing; and

TABLE 4 TO PARAGRAPH (c): [1] CREDIT RISK: GENERAL DISCLOSURES—Continued

	(6) Charge-offs during the period. (f) Amount of past due loans categorized by significant geographic areas including, if practical, the amounts of allowances related to each geographical area,[4] further categorized as required by GAAP. (g) Reconciliation of changes in the adjusted allowance for credit losses.[5] (h) Remaining contractual maturity delineation (for example, one year or less) of the whole portfolio, categorized by credit exposure.

[1] Table 4 does not cover equity exposures, which should be reported in Table 8 of this section.
[2] Geographical areas consist of areas within the United States and territories. An Enterprise might choose to define the geographical areas based on the way the Enterprise's portfolio is geographically managed. The criteria used to allocate the loans to geographical areas must be specified.
[3] An Enterprise is encouraged also to provide an analysis of the aging of past-due loans.
[4] The portion of the general allowance that is not allocated to a geographical area should be disclosed separately.
[5] The reconciliation should include the following: A description of the allowance; the opening balance of the allowance; charge-offs taken against the allowance during the period; amounts provided (or reversed) for estimated expected credit losses during the period; any other adjustments (for example, exchange rate differences, business combinations, acquisitions and disposals of subsidiaries), including transfers between allowances; and the closing balance of the allowance. Charge-offs and recoveries that have been recorded directly to the income statement should be disclosed separately.

TABLE 5 TO PARAGRAPH (c): GENERAL DISCLOSURE FOR COUNTERPARTY CREDIT RISK-RELATED EXPOSURES

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to OTC derivatives, eligible margin loans, and repo-style transactions, including a discussion of: (1) The methodology used to assign credit limits for counterparty credit exposures; (2) Policies for securing collateral, valuing and managing collateral, and establishing credit reserves; (3) The primary types of collateral taken; and (4) The impact of the amount of collateral the Enterprise would have to provide given a deterioration in the Enterprise's own creditworthiness.
Quantitative Disclosures	(b) Gross positive fair value of contracts, collateral held (including type, for example, cash, government securities), and net unsecured credit exposure.[1] An Enterprise also must disclose the notional value of credit derivative hedges purchased for counterparty credit risk protection and the distribution of current credit exposure by exposure type.[2] (c) Notional amount of purchased and sold credit derivatives, segregated between use for the Enterprise's own credit portfolio and in its intermediation activities, including the distribution of the credit derivative products used, categorized further by protection bought and sold within each product group.

[1] Net unsecured credit exposure is the credit exposure after considering both the benefits from legally enforceable netting agreements and collateral arrangements without taking into account haircuts for price volatility, liquidity, etc.
[2] This may include interest rate derivative contracts, foreign exchange derivative contracts, equity derivative contracts, credit derivatives, commodity or other derivative contracts, repo-style transactions, and eligible margin loans.

TABLE 6 TO PARAGRAPH (c): CREDIT RISK MITIGATION [1] [2]

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to credit risk mitigation, including: (1) Policies and processes for collateral valuation and management; (2) A description of the main types of collateral taken by the Enterprise; (3) The main types of guarantors/credit derivative counterparties and their creditworthiness; and (4) Information about (market or credit) risk concentrations with respect to credit risk mitigation.
Quantitative Disclosures	(b) For each separately disclosed credit risk portfolio, the total exposure that is covered by eligible financial collateral, and after the application of haircuts. (c) For each separately disclosed portfolio, the total exposure that is covered by guarantees/credit derivatives and the risk-weighted asset amount associated with that exposure.

[1] At a minimum, an Enterprise must provide the disclosures in Table 6 in relation to credit risk mitigation that has been recognized for the purposes of reducing capital requirements under this subpart. Where relevant, the Enterprises are encouraged to give further information about mitigants that have not been recognized for that purpose.
[2] Credit derivatives that are treated, for the purposes of this subpart, as synthetic securitization exposures should be excluded from the credit risk mitigation disclosures and included within those relating to securitization (Table 7 of this section).

TABLE 7 TO PARAGRAPH (c): CRT AND SECURITIZATION

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to a securitization (including synthetic securitizations), including a discussion of: (1) The Enterprise's objectives for securitizing assets, including the extent to which these activities transfer credit risk of the underlying exposures away from the Enterprise to other entities and including the type of risks assumed and retained with resecuritization activity; [1] (2) The nature of the risks (*e.g.,* liquidity risk) inherent in the securitized assets; (3) The roles played by the Enterprise in the securitization process[2] and an indication of the extent of the Enterprise's involvement in each of them; (4) The processes in place to monitor changes in the credit and market risk of securitization exposures including how those processes differ for resecuritization exposures; (5) The Enterprise's policy for mitigating the credit risk retained through securitization and resecuritization exposures; and (6) The risk-based capital approaches that the Enterprise follows for its securitization exposures including the type of securitization exposure to which each approach applies. (b) A list of:

TABLE 7 TO PARAGRAPH (c): CRT AND SECURITIZATION—Continued

	(1) The type of securitization SPEs that the Enterprise, as sponsor, uses to securitize third-party exposures. The Enterprise must indicate whether it has exposure to these SPEs, either on- or off-balance sheet; and (2) Affiliated entities: (i) That the Enterprise manages or advises; and (ii) That invest either in the securitization exposures that the Enterprise has securitized or in securitization SPEs that the Enterprise sponsors.[3]
	(c) Summary of the Enterprise's accounting policies for CRT and securitization activities, including: (1) Whether the transactions are treated as sales (i.e., sale accounting has been obtained) or financings; (2) Recognition of gain-on-sale; (3) Methods and key assumptions applied in valuing retained or purchased interests; (4) Changes in methods and key assumptions from the previous period for valuing retained interests and impact of the changes; (5) Treatment of synthetic securitizations; (6) How exposures intended to be securitized are valued and whether they are recorded under subpart D of this part; and (7) Policies for recognizing liabilities on the balance sheet for arrangements that could require the Enterprise to provide financial support for securitized assets.
Quantitative Disclosures	(d) An explanation of significant changes to any quantitative information since the last reporting period. (e) The total outstanding exposures securitized by the Enterprise in securitizations that meet the operational criteria provided in § 1240.41 (categorized into traditional and synthetic securitizations), by exposure type, separately for securitizations of third-party exposures for which the bank acts only as sponsor.[4] (f) For exposures securitized by the Enterprise in securitizations that meet the operational criteria in § 1240.41: (1) Amount of securitized assets that are past due categorized by exposure type; and (2) Losses recognized by the Enterprise during the current period categorized by exposure type.[5] (g) The total amount of outstanding exposures intended to be securitized categorized by exposure type. (h) Aggregate amount of: (1) On-balance sheet securitization exposures retained or purchased categorized by exposure type; and (2) Off-balance sheet securitization exposures categorized by exposure type. (i)(1) Aggregate amount of securitization exposures retained or purchased and the associated capital requirements for these exposures, categorized between securitization and resecuritization exposures, further categorized into a meaningful number of risk weight bands and by risk-based capital approach (*e.g.,* CRTA, SSFA); and (2) Aggregate amount disclosed separately by type of underlying exposure in the pool of any: (i) After-tax gain-on-sale on a securitization that has been deducted from common equity tier 1 capital; and (ii) Credit-enhancing interest-only strip that is assigned a 1,250 percent risk weight. (j) Summary of current year's securitization activity, including the amount of exposures securitized (by exposure type), and recognized gain or loss onsale by exposure type. (k) Aggregate amount of resecuritization exposures retained or purchased categorized according to: (1) Exposures to which credit risk mitigation is applied and those not applied; and (2) Exposures to guarantors categorized according to guarantor creditworthiness categories or guarantor name.

[1] The Enterprise should describe the structure of resecuritizations in which it participates; this description should be provided for the main categories of resecuritization products in which the Enterprise is active.

[2] For example, these roles may include originator, investor, servicer, provider of credit enhancement, sponsor, liquidity provider, or swap provider.

[3] Such affiliated entities may include, for example, money market funds, to be listed individually, and personal and private trusts, to be noted collectively.

[4] "Exposures securitized" include underlying exposures originated by the Enterprise, whether generated by them or purchased, and recognized in the balance sheet, from third parties, and third-party exposures included in sponsored transactions. Securitization transactions (including underlying exposures originally on the Enterprise's balance sheet and underlying exposures acquired by the Enterprise from third-party entities) in which the originating Enterprise does not retain any securitization exposure should be shown separately but need only be reported for the year of inception. Enterprises are required to disclose exposures regardless of whether there is a capital charge under this part.

[5] For example, charge-offs/allowances (if the assets remain on the Enterprise's balance sheet) or credit-related write-off of interest-only strips and other retained residual interests, as well as recognition of liabilities for probable future financial support required of the bank with respect to securitized assets.

TABLE 8 TO PARAGRAPH (c): EQUITIES

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to equity risk for equities, including: (1) Differentiation between holdings on which capital gains are expected and those taken under other objectives including for relationship and strategic reasons; and (2) Discussion of important policies covering the valuation of and accounting for equity holdings. This includes the accounting techniques and valuation methodologies used, including key assumptions and practices affecting valuation as well as significant changes in these practices.
Quantitative Disclosures	(b) Carrying value disclosed on the balance sheet of investments, as well as the fair value of those investments; for securities that are publicly traded, a comparison to publicly-quoted share values where the share price is materially different from fair value. (c) The types and nature of investments, including the amount that is: (1) Publicly traded; and (2) Non publicly traded. (d) The cumulative realized gains (losses) arising from sales and liquidations in the reporting period. (e)(1) Total unrealized gains (losses) recognized on the balance sheet but not through earnings. (2) Total unrealized gains (losses) not recognized either on the balance sheet or through earnings. (3) Any amounts of the above included in tier 1 or tier 2 capital. (f) Capital requirements categorized by appropriate equity groupings, consistent with the Enterprise's methodology, as well as the aggregate amounts and the type of equity investments subject to any supervisory transition regarding regulatory capital requirements.[1]

[1] This disclosure must include a breakdown of equities that are subject to the 0 percent, 20 percent, 100 percent, 300 percent, 400 percent, and 600 percent risk weights, as applicable.

TABLE 9 TO PARAGRAPH (c): INTEREST RATE RISK FOR NON-TRADING ACTIVITIES

Qualitative disclosures	(a) The general qualitative disclosure requirement, including the nature of interest rate risk for non-trading activities and key assumptions, including assumptions regarding loan prepayments and frequency of measurement of interest rate risk for non-trading activities.
Quantitative disclosures	(b) The increase (decline) in earnings or economic value (or relevant measure used by management) for upward and downward rate shocks according to management's method for measuring interest rate risk for non-trading activities, categorized by currency (as appropriate).

TABLE 10 TO PARAGRAPH (c): OPERATIONAL RISK

Qualitative disclosures	(a) The general qualitative disclosure requirement for operational risk. (b) Description of the AMA, when applicable, including a discussion of relevant internal and external factors considered in the Enterprise's measurement approach. (c) A description of the use of insurance for the purpose of mitigating operational risk.

TABLE 11 TO PARAGRAPH (c): TIER 1 LEVERAGE RATIO

	Dollar amounts in thousands			
	Tril	Bil	Mil	Thou
Part 1: Summary comparison of accounting assets and adjusted total assets				
1 Total consolidated assets as reported in published financial statements				
2 Adjustment for fiduciary assets recognized on balance sheet but excluded from total leverage exposure				
3 Adjustment for derivative exposures				
4 Adjustment for repo-style transactions				
5 Adjustment for off-balance sheet exposures (that is, conversion to credit equivalent amounts of off-balance sheet exposures)				
6 Other adjustments				
7 Adjusted total assets (sum of lines 1 to 6)				
Part 2: Tier 1 leverage ratio				
On-balance sheet exposures				
1 On-balance sheet assets (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions)				
2 LESS: Amounts deducted from tier 1 capital				
3 Total on-balance sheet exposures (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions) (sum of lines 1 and 2)				

TABLE 11 TO PARAGRAPH (c): TIER 1 LEVERAGE RATIO—Continued

	Dollar amounts in thousands			
	Tril	Bil	Mil	Thou
Derivative exposures				
4 Current exposure for derivative exposures (that is, net of cash variation margin)				
5 Add-on amounts for potential future exposure (PFE) for derivative exposures				
6 Gross-up for cash collateral posted if deducted from the on-balance sheet assets, except for cash variation margin				
7 LESS: Deductions of receivable assets for cash variation margin posted in derivative transactions, if included in on-balance sheet assets				
8 LESS: Exempted CCP leg of client-cleared transactions				
9 Effective notional principal amount of sold credit protection				
10 LESS: Effective notional principal amount offsets and PFE adjustments for sold credit protection				
11 Total derivative exposures (sum of lines 4 to 10)				
Repo-style transactions				
12 On-balance sheet assets for repo-style transactions, except include the gross value of receivables for reverse repurchase transactions. Exclude from this item the value of securities received in a security-for-security repo-style transaction where the securities lender has not sold or re-hypothecated the securities received. Include in this item the value of securities that qualified for sales treatment that must be reversed				
13 LESS: Reduction of the gross value of receivables in reverse repurchase transactions by cash payables in repurchase transactions under netting agreements				
14 Counterparty credit risk for all repo-style transactions				
15 Exposure for repo-style transactions where a banking organization acts as an agent				
16 Total exposures for repo-style transactions (sum of lines 12 to 15)				
Other off-balance sheet exposures				
17 Off-balance sheet exposures at gross notional amounts				
18 LESS: Adjustments for conversion to credit equivalent amounts				
19 Off-balance sheet exposures (sum of lines 17 and 18)				
Capital and adjusted total assets				
20 Tier 1 capital				
21 Adjusted total assets (sum of lines 3, 11, 16 and 19)				
Tier 1 leverage ratio				
22 Tier 1 leverage ratio	(in percent)			

■ 4. Add § 1240.205 to Subpart F to read as follows:

Subpart F—Risk-weighted Assets—Market Risk

* * * * *

§ 1240.205 Market risk disclosures.

(a) *Scope.* An Enterprise must make timely public disclosures each calendar quarter. If a significant change occurs, such that the most recent reporting amounts are no longer reflective of the Enterprise's capital adequacy and risk profile, then a brief discussion of this change and its likely impact must be provided as soon as practicable thereafter. Qualitative disclosures that typically do not change each quarter may be disclosed annually, provided any significant changes are disclosed in the interim. If an Enterprise believes that disclosure of specific commercial or financial information would prejudice seriously its position by making public certain information that is either proprietary or confidential in nature, the Enterprise is not required to disclose these specific items, but must disclose more general information about the subject matter of the requirement, together with the fact that, and the reason why, the specific items of information have not been disclosed. The Enterprise's management may provide all of the disclosures required by this section in one place on the Enterprise's public website or may provide the disclosures in more than one public financial report or other regulatory reports, provided that the Enterprise publicly provides a summary table specifically indicating the location(s) of all such disclosures.

(b) *Disclosure policy.* The Enterprise must have a formal disclosure policy approved by the board of directors that addresses the Enterprise's approach for determining its market risk disclosures. The policy must address the associated internal controls and disclosure controls and procedures. The board of directors and senior management must ensure that appropriate verification of the disclosures takes place and that effective internal controls and disclosure controls and procedures are maintained. The Chief Risk Officer and the Chief Financial Officer of the Enterprise must attest that the disclosures meet the requirements of this subpart, and the board of directors and senior management are responsible for establishing and maintaining an effective internal control structure over financial reporting, including the disclosures required by this section.

(c) *Quantitative disclosures.* (1) For each material portfolio of covered positions, the Enterprise must provide timely public disclosures of the following information at least quarterly:

(i) Exposure amounts for each product type included in covered positions as described in § 1240.202;

(ii) Risk-weighted assets for each product type included in covered positions as described in § 1240.202.

(2) In addition, the Enterprise must disclose publicly the aggregate amount of on-balance sheet and off-balance sheet securitization positions by exposure type at least quarterly.

(d) *Qualitative disclosures.* For each material portfolio of covered positions as identified using the definitions in § 1240.202, the Enterprise must provide timely public disclosures of the following information at least annually after the end of the fourth calendar quarter, or more frequently in the event of material changes for each portfolio:

(1) The composition of material portfolios of covered positions;

(2) The Enterprise's valuation policies, procedures, and methodologies for covered positions including, for securitization positions, the methods and key assumptions used for valuing such positions, any significant changes since the last reporting period, and the impact of such change;

(3) The characteristics of the internal models used for purposes of this subpart;

(4) A description of the approaches used for validating and evaluating the accuracy of internal models and modeling processes for purposes of this subpart;

(5) For each market risk category (that is, interest rate risk, credit spread risk, equity price risk, foreign exchange risk, and commodity price risk), a description of the stress tests applied to the positions subject to the factor;

(6) The results of the comparison of the Enterprise's internal estimates for purposes of this subpart with actual outcomes during a sample period not used in model development;

(7) A description of the Enterprise's processes for monitoring changes in the credit and market risk of securitization positions, including how those processes differ for resecuritization positions; and

(8) A description of the Enterprise's policy governing the use of credit risk mitigation to mitigate the risks of securitization and resecuritization positions.

Sandra L. Thompson,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2021–23780 Filed 11–2–21; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0952; Project Identifier 2019–CE–039–AD]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Diamond Aircraft Industries GmbH (DAI) Model DA 42, DA 42 M–NG, and DA 42 NG airplanes. This proposed AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as dissolved or detached fuel tank hose material entering the main fuel tank chambers, which could result in restricted fuel flow with consequent fuel starvation. This proposed AD would require removing the fuel tank connection hoses from service and inspecting the fuel tank connection hoses for damage and detached rubber material. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 20, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* website: *https://www.diamond aircraft.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0952; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E. 68th Avenue, Denver, CO 80249; phone: (303) 342–1094; fax: (303) 342–1088; email: *penelope.trease@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0952; Project Identifier 2019–CE–039–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as

private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E. 68th Avenue, Denver, CO 80249. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0218, dated September 3, 2019 (referred to after this as ''the MCAI''), to address an unsafe condition on certain DAI Model DA 42, DA 42M, DA 42 M–NG, and DA 42 NG airplanes. The MCAI states:

> Reports were received of dissolved fuel tank connections hoses. Rubber parts were found within the fuel tank. The investigation results showed that the affected parts are limited to 2 isolated batches, some of which were installed on the production line. Other affected parts have been supplied as spare for in-service replacement.
>
> This condition, if not corrected, could lead to restricted fuel flow from the tank, possibly resulting in fuel starvation and consequent reduced control of the aeroplane.
>
> To address this potential unsafe condition, DAI issued the applicable MSB [Mandatory Service Bulletin], providing instructions to identify and replace the affected parts. The applicable MSB identifies the MSN [manufacturer serial numbers] of the aeroplanes on which affected parts were installed during aeroplane production. The applicable MSB also indicates that any other aeroplane may be affected, if an affected part supplied as spare was installed.
>
> For the reason described above, this [EASA] AD requires removal and replacement of the affected parts, and, if a removed affected part is found damaged, inspection of the fuel tank chambers and removal of any detached rubber material. This [EASA] AD also prohibits (re)installation of any affected parts.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0952.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Diamond Aircraft Mandatory Service Bulletin (MSB) 42–138/MSB 42NG–080, dated July 1, 2019 (issued as one document) published with Diamond Aircraft Work Instruction (WI) MSB 42–138/WI–MSB 42NG–080, dated July 1, 2019 (issued as one document) attached. This service information identifies the list of affected fuel tank connection hoses and also contains procedures for replacing the fuel tank connection hose and inspecting the main fuel tank chambers. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES.**

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this NPRM after determining the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require removing the affected fuel tank connection hoses from service. This proposed AD would also require inspecting the fuel tank connection hoses and, if there is damage, inspecting the main fuel tank chambers and removing any detached rubber material.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI applies to the Model DA 42 M airplane and this proposed AD would not because it does not have an FAA type certificate.

The service information specifies reporting information to DAI, and this proposed AD would not require reporting.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 192 airplanes of U.S. registry. The FAA estimates that it would take about 30 work-hours to do the actions of this proposed AD and require a part costing $188. The average labor rate is $85 per work-hour. Based on these figures, the FAA estimates the cost to do the actions of this proposed AD on U.S. operators to be $525,696 or $2,738 per airplane.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Diamond Aircraft Industries GmbH: Docket No. FAA–2021–0952; Project Identifier 2019–CE–039–AD.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 20, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to:

(1) Diamond Aircraft Industries GmbH (DAI) Model DA 42 NG airplanes, serial numbers (S/N) 42.N303 through 42.N314, 42.N319, and 42.N320, certificated in any category, with a fuel tank connection hose part number (P/N) D4D–2817–10–70 installed; or

(2) DAI Models DA 42, DA 42 NG, and DA 42 M–NG airplanes, all serial numbers, certificated in any category, with a fuel tank connection hose P/N D4D–2817–10–70 identified in the Technical Details, section I.11, of Diamond Aircraft Mandatory Service Bulletin MSB 42–138/MSB 42NG–080, dated July 1, 2019 (issued as one document) (MSB 42–138/42NG–080), installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 2810, Fuel Storage.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as dissolved or detached fuel tank hose material entering the main fuel tank chambers. The FAA is issuing this AD to prevent restricted fuel flow, which could result in fuel starvation. The unsafe condition, if not addressed, could result in fuel starvation and reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Within 100 hours time-in-service (TIS) after the effective date of this AD or within 4 months after the effective date of this AD, whichever occurs first, replace the main fuel tank connection hoses in accordance with the Instructions, sections III.1 and III.2, in DAI Work Instruction WI–MSB 42–138 and WI–MSB 42NG–080, Revision 0, dated July 1, 2019, (issued as one document) attached to MSB 42–138/42NG–080. Instead of P/N D4D–2817–10–70_01, you may also replace a fuel tank connection hose with P/N D4D–2817–10–70 that is not identified in paragraph (c) of this AD.

(2) As of the effective date of this AD, do not install a fuel tank connection hose P/N D4D–2817–10–70 identified in paragraph (c) of this AD on any airplane.

(h) No Reporting Requirement

This AD does not require you to report information as specified in the Instructions, step III.1.12, in DAI Work Instruction WI–MSB 42–138/WI–MSB 42NG–080 (single document), Revision 0, dated July 1, 2019, which is co-published as one document with MSB 42–138/42NG–080.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD or email to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E. 68th Avenue, Denver, CO 80249; phone: (303) 342–1094; fax: (303) 342–1088; email: *penelope.trease@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0218, dated September 3, 2019, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2021–0952.

(3) For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* website: *https://www.diamond aircraft.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued on October 27, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–23908 Filed 11–2–21; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2021–0631; FRL–9125–01–R2]

Disapproval of Interstate Transport Requirements for the 2008 Ozone National Ambient Air Quality Standards; New York and New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to disapprove State Implementation Plan (SIP) submissions from New York and New Jersey regarding the requirements of section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA) for the 2008 ozone national ambient air quality standards (NAAQS). This provision requires that each state's SIP contain adequate provisions to prohibit emissions from within the state from significantly contributing to nonattainment or interfering with maintenance of the NAAQS in other states. This requirement is part of the broader ''infrastructure'' requirements of CAA section 110(a)(2), which are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: Written comments must be received on or before December 3, 2021.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R02–OAR–2021–0631 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit

http://www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Kenneth Fradkin, Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–3702, or by email at *Fradkin.Kenneth@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 110(a) of the CAA imposes an obligation upon states to submit SIPs that provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within 3 years following the promulgation of that NAAQS. Section 110(a)(2) lists specific requirements that states must meet in these SIP submissions, as applicable. The EPA refers to this type of SIP submission as the ''infrastructure'' SIP because the SIP ensures that states can implement, maintain, and enforce the air standards. Within these requirements, CAA section 110(a)(2)(D)(i)(I) contains requirements to address interstate transport of NAAQS pollutants or their precursors. CAA section 110(a)(2)(D)(i)(I), which is also known as the ''good neighbor'' provision, requires SIPs to contain provisions prohibiting any source or other type of emissions activity within the State from emitting any air pollutant in amounts that will contribute significantly to nonattainment of the NAAQS in any other state (commonly referred to as prong 1) or interfere with maintenance of the NAAQS in any other state (prong 2). A SIP revision submitted under this provision is often referred to as an ''interstate transport SIP'' or a good neighbor SIP. In this action, EPA proposes to disapprove SIP submissions from the states of New York and New Jersey with respect to these good neighbor requirements.

On March 12, 2008, EPA strengthened the NAAQS for ozone. 73 FR 16435 (March 27, 2008). The EPA revised the level of the 8-hour ozone NAAQS from 0.08 parts per million (ppm) to 0.075 ppm. The EPA also revised the secondary 8-hour standard to the level of 0.075 ppm making it identical to the revised primary standard. Infrastructure SIPs addressing the revised standard, including the interstate transport requirements, were due March 12, 2011.[1]

On April 4, 2013, the New York State Department of Environmental Conservation (NYSDEC) submitted a revision to its SIP to address requirements under section 110(a)(2) of the CAA (*i.e.,* the infrastructure requirements) related to the 2008 ozone NAAQS, including interstate transport. The EPA disapproved the portion of that submittal addressing the good neighbor provision (*i.e.,* CAA section 110(a)(2)(D)(i)(I) (prongs 1 and 2)) for the 2008 ozone NAAQS on August 12, 2016.[2] The EPA's August 12, 2016 disapproval of the portion of New York's submittal addressing the good neighbor provision for the 2008 ozone NAAQS was based on the EPA's determination that New York's SIP was deficient for a number of reasons.[3]

On October 17, 2014, the New Jersey Department of Environmental Protection (NJDEP) submitted a revision to its SIP to address requirements under section 110(a)(2) of the CAA (the infrastructure requirements) related to the 2008 ozone NAAQS, including interstate transport. On March 30, 2016, New Jersey withdrew the portion of the submittal addressing the good neighbor provision for the 2008 ozone NAAQS.

On October 26, 2016, the EPA published the Cross-State Air Pollution Rule Update (or CSAPR Update),[4] which promulgated Federal Implementation Plans (FIPs) for 22 states, including New York and New Jersey, that the EPA found failed to either submit a complete good neighbor SIP, or for which EPA issued a final rule disapproving their good neighbor SIPs for the 2008 ozone NAAQS. The FIPs promulgated for these states included new nitrogen oxide (NO_X) ozone season emissions budgets for Electric Generating Units (EGUs). These emissions budgets took effect in 2017 in order to assist downwind states with attainment of the 2008 ozone NAAQS by the Moderate area attainment date of July 11, 2018. In the CSAPR Update, based on the information available at the time, the EPA acknowledged that the promulgated FIPs for all of the 22 states except Tennessee only partially addressed good neighbor obligations under the 2008 ozone NAAQS.

In October 2017, the EPA issued guidance[5] to states to facilitate their efforts to develop SIPs that address their outstanding good neighbor obligations for the 2008 ozone NAAQS. The EPA guidance provided future year ozone design values and contribution modeling outputs for monitors in the United States based on air quality modeling for 2023. The EPA's modeling indicated that there were no monitoring sites, outside of California, projected to have nonattainment or maintenance problems in 2023.

On December 21, 2018, the EPA published the Cross-State Air Pollution Rule Close-Out (or CSAPR Close-Out),[6] which found, in the exercise of the EPA's FIP authority under CAA section 110(c), that the CSAPR Update was a complete remedy based on air quality analysis of the year 2023. This finding was based on the same modeling results released in EPA's October 2017 guidance described in this section.

On September 25, 2018, the NYSDEC submitted a SIP revision to address the EPA's August 26, 2016 disapproval of the portion of New York's April 4, 2013 submittal addressing the good neighbor provision for the 2008 ozone NAAQS. On May 13, 2019, New Jersey submitted a SIP revision, which also addressed the good neighbor provision for the 2008 ozone NAAQS.[7] These SIP submittals were not required as EPA's finding in the CSAPR Close-out was that there were no further obligations in addition to the CSAPR Update FIPs for either of these states.

On September 13, 2019, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded the CSAPR Update, concluding that it unlawfully allowed upwind states to continue their significant contributions to downwind air quality problems beyond the statutory dates by which downwind States must demonstrate their attainment of ozone air quality standards. *Wisconsin* v. *EPA,* 938 F.3d 303, 318–20 (D.C. Cir. 2019) (*Wisconsin*) (per curiam)*; see also id.* 336–37 (concluding that remand without vacatur was appropriate). Subsequently, on October 1, 2019, in a judgment order,

[1] *See* CAA section 110(a)(1).

[2] 81 FR 58849 (August 26, 2016).

[3] *See* id.

[4] ''Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS,'' 81 FR 74504 (October 26, 2016).

[5] ''Supplemental Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act Section 1110(a)(2)(D)(i)(I)'', October 27, 2017. Available at *https://www.epa.gov/sites/production/files/2017-10/documents/final_2008_o3_naaqs_transport_memo_10-27-17b.pdf.*

[6] ''Determination Regarding Good Neighbor Obligations for the 2008 Ozone National Ambient Air Quality Standard,'' 83 FR 65878 (December 21, 2018).

[7] New Jersey's SIP revision also addressed infrastructure and good neighbor provisions for the 2015 ozone NAAQS. The EPA will act on that portion of the submittal in separate actions at a later date.

the D.C. Circuit vacated the CSAPR Close-Out on the same grounds on which it had remanded without vacatur the CSAPR Update in *Wisconsin. New York* v. *EPA,* 781 Fed. App'x 4, 7 (D.C. Cir. 2019) (*New York*). The court found the CSAPR Close-Out inconsistent with the *Wisconsin* holding because the rule analyzed the year 2023 rather than 2021 and failed to demonstrate that it was an impossibility to address significant contribution by the 2021 Serious area attainment date (''the next applicable attainment date'').

In response to the *Wisconsin* remand and the *New York* vacatur, on March 15, 2021, the EPA finalized the Revised Cross-State Air Pollution Rule Update (or Revised CSAPR Update).[8] The Revised CSAPR Update amended the CSAPR Update FIPs for New York and New Jersey for the 2008 ozone NAAQS by issuing revised EGU NO_X ozone season budgets that reflect additional emissions reductions beginning with the 2021 ozone season. In accordance with *Wisconsin* and *New York,* the EPA aligned its analysis and the implementation of emissions reductions required to address significant contribution with the 2021 ozone season, which corresponds to the July 20, 2021, Serious area attainment date for the 2008 ozone NAAQS.[9] The EPA further determined which emissions reductions would be impossible to achieve by the 2021 attainment date and whether any such additional emissions reductions would be required beyond that date. *See Wisconsin,* 938 F.3d at 320; *New York,* 781 Fed. App'x at 7.

II. The 4-Step Interstate Transport Framework and EPA's Revised Cross-State Air Pollution Rule Update

The EPA is using the 4-step interstate transport framework (or 4-step framework) to evaluate New York 's September 25, 2018 SIP submittal and New Jersey's May 13, 2019 SIP submittal addressing the good neighbor provision for the 2008 ozone NAAQS. In particular, EPA is applying the results of the Agency's analyses and determinations for the Revised CSAPR Update in evaluating New York and New Jersey's good neighbor SIP submittals.

Through the development and implementation of several previous rulemakings, the EPA, working in partnership with states, established the following 4-step framework to address the requirements of the good neighbor provision for ground-level ozone NAAQS: (1) Identifying downwind receptors that are expected to have problems attaining or maintaining the NAAQS; (2) determining which upwind states contribute to these identified problems in amounts sufficient to ''link'' them to downwind air quality problems; (3) for states linked to downwind air quality problems, identifying upwind emissions that significantly contribute to downwind nonattainment or interfere with downwind maintenance of the NAAQS; and (4) for states that are found to have emissions that significantly contribute to downwind nonattainment or interfere with maintenance of the NAAQS downwind, implementing the necessary emissions reductions through enforceable measures. The EPA applied this 4-step framework in both the CSAPR Update and the Revised CSAPR Update.

Consistent with *Wisconsin* and *New York,* the EPA used 2021 as the analytic year in the Revised CSAPR Update for assessing significant contribution. The year 2021 is appropriate because it coincides with the July 20, 2021 Serious area attainment date under the 2008 ozone NAAQS. The Revised CSAPR Update used the most up-to-date information that the EPA had developed to inform the analysis of upwind state linkages to downwind air quality problems at steps 1 and 2. The EPA used air quality modeling [10] and the latest available ambient air quality measurements to (1) identify locations in the U.S. where the EPA expects nonattainment or maintenance problems (*i.e.,* nonattainment or maintenance receptors), and (2) quantify the projected contributions from upwind states to downwind ozone concentrations at those receptors.

For the Revised CSAPR Update (as well as other previous transport rulemakings), the EPA defined ''nonattainment'' receptors as those monitoring sites that were projected to exceed the NAAQS in the appropriate future analytic year, while ''maintenance'' receptors are monitoring sites that are projected to have difficulty maintaining the relevant NAAQS in a scenario that takes into account historical variability in air quality at that receptor. Based on the EPA's analysis at step 1, the Agency identified four nonattainment and/or maintenance receptors in 2021 (*i.e.,* three receptors in Connecticut and one in Texas).

At step 2, the EPA used air quality modeling to quantify the contributions in 2021 from upwind states to ozone concentrations at individual monitoring sites. Once quantified, the EPA then evaluated these contributions relative to a screening threshold of 1 percent of the NAAQS (*i.e.,* 0.75 parts per billion (ppb)) for those monitoring sites identified as nonattainment and/or maintenance receptors in step 1. States with contributions that equal or exceed 1 percent of the NAAQS were identified as warranting further analysis. States with contributions below 1 percent of the NAAQS were found to not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in downwind states.

At step 3, the EPA applied the multi-factor test, which considered downwind air quality impacts, cost, and available emissions reductions to determine the amount of linked upwind states' emissions that ''significantly'' contribute to downwind nonattainment or maintenance receptors. The EPA applied the multi-factor test to both EGU and non-EGU source categories and assessed potential emissions reductions in all years for which there is a potential remaining interstate ozone transport problem (*i.e.,* through 2025), in order to ensure a full remedy. After assessing potential control strategies, the EPA identified an EGU control stringency that reflected the optimization of existing Selective Catalytic Reduction (SCR) controls and installation of state-of-the-art NO_X combustion controls, represented by a cost of $1,600 per ton of NO_X reduced, and the optimization of existing Selective Non-Catalytic Reduction (SNCR) controls, represented by a cost of $1,800 per ton of NO_X reduced. At the selected EGU control stringency, downwind ozone air quality improvements continue to be maximized relative to a representative marginal cost. That is, the ratio of emissions reductions to marginal cost and the ratio of ozone improvements to marginal cost are maximized relative to the other control stringency levels evaluated. The EPA determined that these cost-effective EGU NO_X reductions will make meaningful and timely improvements in downwind ozone air quality.

The EPA also concluded that there are relatively fewer emissions reductions available for non-EGU sources at a cost threshold comparable to the cost threshold selected for EGUs. In EPA's

[8] ''Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS,'' 86 FR 23054 (April 30, 2021).

[9] *See* CAA section 181(a); 40 CFR 51.1103.

[10] The EPA used CAMx version 7 beta 6, which was most recent version of CAMx available at the time, for identifying projected nonattainment and maintenance sites. The EPA is not reopening the modeling analysis for further public comment in this rulemaking for the evaluation of New York and New Jersey's 2008 ozone NAAQS good neighbor SIP submittals.

judgment, such reductions were estimated to have a much smaller effect on any downwind receptor in the year by which the EPA found such controls could be installed. For those reasons, the EPA found that limits on ozone season NO_X emissions from non-EGU sources were not required to eliminate significant contribution or interference with maintenance under the 2008 ozone NAAQS.

Based on the EPA's analysis at step 3, the Agency promulgated EGU NO_X ozone season emissions budgets developed using a uniform control stringency of optimization of existing SCRs and SNCRs, and installation of state-of-the-art NO_X combustion controls for certain states. The EPA determined that with implementation of this control strategy, the EPA will have fully addressed good neighbor obligations for the 2008 ozone NAAQS for New York and New Jersey, among other states.

The EPA aligned the implementation of emissions budgets with relevant attainment dates for the 2008 ozone NAAQS, consistent with CAA requirements and the D.C. Circuit's decisions in *Wisconsin* and *New York.* The implementation of these emissions budgets starts with the 2021 ozone season in alignment with the July 20, 2021 Serious attainment date. The EPA further determined which emissions reductions were impossible to achieve by the 2021 attainment date and whether any such additional emissions reductions should be required beyond that date. The EPA estimated that one part of the selected control strategy—installation of state-of-the-art NO_X combustion controls—requires approximately one to six months depending on the unit. Recognizing that the final rule would become effective slightly after the start of the 2021 ozone season, the EPA determined it was not possible to install state-of-the-art NO_X combustion controls on a regional scale by the 2021 ozone season. Therefore, the 2021 ozone season emissions budgets reflect only the optimization of existing SCR and SNCR controls at the affected EGUs, but the emission budgets for the 2022 ozone season and beyond reflect both the continued optimization of existing SCR and SNCR controls and installation of state-of-the-art NO_X combustion controls.

The EPA's air quality projections anticipate that with the implementation of the identified control strategy for EGUs, downwind nonattainment and maintenance problems for the 2008 ozone NAAQS will persist through the 2024 ozone season. Therefore, the EPA adjusted emission budgets for upwind states that remain linked to downwind nonattainment and maintenance problems through the 2024 ozone season to incentivize the continued optimization of existing SCR and SNCR controls, and installation of state-of-the-art NO_X combustion controls. The 2024 emission budgets then continue to apply in each year thereafter.

To apply the fourth step of the 4-step framework (*i.e.,* implementation), the EPA included enforceable measures in the promulgated FIPs to achieve the required emission reductions in each of the linked upwind states, including New York and New Jersey. In particular, following the model of prior CSAPR rulemakings, the EPA implemented an interstate emissions trading program (the Group 3 trading program) for the linked upwind states to implement the EGU emissions budgets established at step 3.

Additional information regarding the provisions and supporting analysis for the Revised CSAPR Update can be found in the final rule and in the technical supporting documents for the rulemaking.[11]

III. Summary of New York's SIP Revision and the EPA's Analysis

What did New York submit?

In its September 25, 2018 SIP submittal, New York followed the 4-step framework for determining its good neighbor obligations. New York provided air quality modeling and a list of already-enacted and ''on-the-way'' state air pollution control measures to conclude that New York satisfied its good neighbor obligations for the 2008 ozone NAAQS.

New York submitted projection modeling for 2023 based on the Community Multiscale Air Quality Model (CMAQ) that shows the Westport, CT monitoring site as a nonattainment receptor in 2023. New York also submitted state-by-state contribution modeling for 2023 based on the Comprehensive Model with Extensions (CAMx) modeling performed by the Maryland Department of the Environment (MDE). New York coupled its CMAQ projection modeling with MDE's CAMx contribution modeling to show that New York is linked to the Westport monitoring site [12] using a 1 percent of the NAAQS threshold. Based on this information, New York conceded that it was linked to at least one Connecticut receptor at steps 1 and 2.

New York asserted that, despite its contributions, the State had met its good neighbor obligations through the implementation and enforcement of stringent NO_X and VOC control measures that the State asserted go well beyond the EPA presumptive cost threshold in the CSAPR Update for highly cost-effective emissions reductions, and through the ongoing adoption and revision of additional control measures to further ensure the reduction of ozone in both New York State and downwind areas.

New York cited its Reasonably Available Control Technology (RACT) rules, which has been required on major sources of NO_X throughout the State since 1995, and has been periodically updated (in 1999, 2004, and 2010) to keep up with advances in control technology. New York indicated that the State's RACT presumptive emissions limits and facility-specific emissions limits are based on inflation-adjusted control cost valued at $5,500 per ton of NO_X reduced, which New York indicated was consistent with typical costs to install SCR units, and above the EPA's $1,400 per ton control cost threshold used for the CSAPR Update that reflected the cost of turning on already-existing SCR control units. New York also noted that the State's EGU NO_X emissions rates are among the lowest in the country, as reflected in its CSAPR Update ozone season emissions budget, which is lower than all other states with the exception of New Jersey and Delaware. New York indicated that its $5,500 RACT control cost also applied to non-EGUs.

New York also stated in the September 2018 submittal that it was in various stages of the rulemaking process for additional measures to further control NO_X and VOC emissions from EGU, non-EGU, area, and mobile sources.

Additional NO_X reductions would be obtained, according to the State, through the following regulatory updates that were, at the time of the submittal, under development by the State: establishing new NO_X limits for simple cycle combustion turbines (or ''peaking'' [13] units), which New York noted would benefit the NYMA on hot summer days that are most conducive to ozone

[11] *See* Docket ID No. EPA–HQ–OAR–2020–0272 at the *www.regulations.gov* website. Additional information is also available at *www.epa.gov/csapr/revised-cross-state-air-pollution-rule-update.*

[12] In the CAMx modeling Westport was not projected to be a nonattainment or maintenance receptor in 2023.

[13] Simple cycle combustion turbines, also known as peaking units (peakers), run to meet electric load during periods of peak electricity demand. These peakers typically operate during periods of elevated temperature when electric demand increases. Older simple cycle combustion turbines sometimes have no or only low-level NO_X emission controls.

formation (*i.e.,* high electric demand days) (6 NYCRR Part 227); establishing NO_X limits for distributed generation sources (6 NYCRR Part 222); applying NO_X RACT requirements to municipal waste combustors (6 NYCRR Part 219); requiring new installation, recordkeeping and reporting requirements for aftermarket catalytic converters (Part 218); and the adoption of the CSAPR Update trading program (6 NYCRR Part 243).

New York's submittal also indicates that it will further control area-source VOC emissions through updates to State VOC RACT regulations for Oil and Gas (6 NYCRR Part 203); Architectural and Industrial Maintenance Coatings (6 NYCRR Part 205); Solvent Metal Cleaning Processes (Part 226); Motor Vehicle and Mobile Equipment Refinishing and Recoating Operations (6 NYCRR Part 228, Subpart 228–1); Gasoline Dispensing Sites and Transport Vehicles (6 NYCRR Part 230); and Consumer Products (6 NYCRR Part 235).

In their submittal to the EPA, New York commented that the State's mobile on-road sector alone (without considering other state emissions) ''significantly impacted downwind monitors, with 2023 contributions as high as 4.64 ppb at the Greenwich, Connecticut monitor'' (site 090010017), based on the University of Maryland CAMx modeling.[14]

New York stated that the on-road sector is controlled through the inspection/maintenance and anti-idling standards in 6 NYCRR Part 217, ''Motor Vehicle Emissions,'' and the implementation of the California Low-Emission Vehicle Standards under 6 NYCRR Part 218, ''Emission Standards for Motor Vehicles and Motor Vehicle Engines.''

EPA's Review

The EPA is proposing to find that the New York September 2018 SIP revision does not meet the State's obligations with respect to prohibiting emissions that will contribute significantly to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state.

As previously indicated in this section, New York acknowledged linkages to a downwind receptor using modeling it submitted. New York evaluated contributions in 2023 rather than 2021. Although EPA's October 27, 2017 guidance memorandum had recommended that 2023 be used for states to develop, supplement, or resubmit good neighbor SIPs for the 2008 ozone NAAQS to fully address their interstate transport obligations, that guidance memorandum was issued prior to the *Wisconsin* and *New York* decisions by the D.C. Circuit. After *Wisconsin* and *New York,* the year 2023 is no longer an appropriate analytic year because that is past the next applicable attainment date. New York's SIP revision relied on the incorrect analytic year. Given the July 20, 2021, Serious attainment date, the appropriate analytic year is 2021.

Based on the air quality analysis for the Revised CSAPR Update, the EPA identified potential nonattainment receptors in 2021 in Stratford, Connecticut (monitor ID 090013007) and Westport, Connecticut (monitor ID 090019003), and maintenance areas in Madison, Connecticut (monitor ID 090099002) and Houston, Texas (monitor ID 482010024). New York was linked to the nonattainment and maintenance receptor sites at the Connecticut sites based on contribution above the threshold of 1 percent of the 2008 ozone NAAQS (*i.e.,* 0.75 ppb). The levels of New York State contribution to each nonattainment and maintenance receptor in 2021 are shown in Table 1:

TABLE 1—NEW YORK CONTRIBUTIONS TO DOWNWIND NONATTAINMENT AND MAINTENANCE AREAS IN 2021

State	Nonattainment receptors		Maintenance receptors	
	Stratford, CT (ppb)	Westport, CT (ppb)	Madison, CT (ppb)	Houston, TX (ppb)
New York	14.42	14.44	12.54	0.00

As previously noted, New York asserted in its September 2018 submittal that, despite its contributions, the State had met its good neighbor obligations ''through the implementation and enforcement of stringent NO_X and VOC control measures that go beyond the EPA presumptive cost threshold in the CSAPR Update for highly cost-effective emissions reductions, and through the ongoing adoption and revision of additional control measures to further ensure the reduction of ozone in both New York [State] and downwind areas.''

The State, however, did not adequately demonstrate that it was controlling its emissions, despite the fact that New York conceded its emissions were linked to a Connecticut receptor (at step 1). The SIP submittal pointed to existing NO_X RACT measures with presumptive and facility-specific emission limits based on $5,500 per ton of NO_X reduced, as well as ongoing state and local emission control efforts to meet its good neighbor obligations. However, the State did not analyze whether additional control measures could reduce the impact of New York's emissions on out of state receptors. Any additional control measures identified by the analysis would need to be submitted to the EPA for approval into the SIP, approved by the EPA, and made federally enforceable. Step 3 of the good neighbor framework requires that the state (or the EPA in the case of a FIP) conduct a more rigorous analysis of what emission controls are necessary to eliminate ''significant'' contribution to a downwind nonattainment or maintenance receptor. Merely identifying a range of various emissions control measures that have been or may be enacted at the state or local level, without analysis of the impact of those measures on the out of state receptors, is insufficient as an analytical matter. Further, step 4 of the good neighbor framework calls for those measures identified in step 3 which are necessary to eliminate significant contribution to be included in the state's SIP, so that they may be approved by EPA and rendered permanent and federally enforceable.

As previously indicated in this section, the September 2018 submittal referenced regulatory updates that New York asserted were in development and would provide for additional NO_X and VOC reductions. The EPA notes that New York has since adopted many of these regulatory updates.[15] New York adopted 6 NYCRR Part 227, Subpart 227–3, ''Ozone Season Oxides of Nitrogen (NO_X) Emission Limits for Simple Cycle and Regenerative Combustion Turbines,'' with a State

[14] See Appendix C of New York's submittal.

[15] New York regulations are available at *https://www.dec.ny.gov/regulations/regulations.html.*

effective date of January 16, 2020, that lowered allowable NO_X emissions from peaking units during the ozone season on high electric demand days, with compliance dates of May 1, 2023 (100 ppmvd [16] limit), and May 1, 2025 (25 ppmvd limit for gas and 42 ppmvd limit for oil).[17] New York adopted a regulation, 6 NYCRR Part 222, ''Distributed Generation Sources,'' with a State effective date of March 25, 2020, that established NO_X emissions control requirements for distributed generation and price responsive generation sources [18] with compliance dates of May 1, 2021 and May 1, 2025.[19] New York adopted revisions, with a State effective date of March 13, 2020, to NYCRR Part 219, including adoption of a new Subpart 219–10,''Reasonably Available Control Technology (RACT) For Oxides Of Nitrogen (NO_X) At Municipal And Private Solid Waste Incineration Units,'' which established NO_X limits for municipal waste combustors with a compliance date of March 14, 2021.[20] New York adopted revisions to NYCRR Part 218, subpart 218–7, ''Aftermarket Parts,'' with a State effective date of March 14, 2020, which required cleaner California certified aftermarket catalytic converters offered for sale or installed in New York State beginning January 1, 2023.[21] New York adopted revisions, with a State effective date of January 11, 2020, to 6 NYCRR Part 205, ''Architectural and Industrial Maintenance Coatings,'' with compliance effective January 1, 2021,[22] requiring more stringent VOC limits for coatings.[23] New York adopted revisions, with a State effective date of November 1, 2019, to 6 NYCRR Part 226, ''Solvent Metal Cleaning Processes,'' establishing VOC content limits for cleaning solvents used in operations not covered by other regulations, beginning November 1, 2020.[24] New York adopted revisions to 6 NYCRR Part 230,with a State effective date of February 11, 2021, ''Gasoline Dispensing Sites and Transport Vehicles,'' and 6 NYCRR Part 235, ''Consumer Products.'' Updates to NYCRR Part 230 include additional VOC control requirements for facilities during gasoline transfer operations beginning February 5, 2021.[25] Updates to Part 235, which require compliance by January 1, 2022, include revising and establishing VOC contents for consumer products.[26]

New York adopted a revised version of 6 NYCRR Part 243, ''CSAPR NO_X Ozone Season Group 2 Trading Program,'' with a State effective date of January 2, 2019, in order to allow New York to allocate CSAPR allowances to regulated entities in New York under an abbreviated SIP.[27] However, the EPA notes that although New York's revised Part 243 replaced the EPA's default allocation procedures for the control periods in 2021 and beyond under the CSAPR Update FIP, the revised state rules did not create any enforceable emission limitations and did not replace the enforceable emission limitations set forth in the additional trading program provisions established under the CSAPR Update FIP. Moreover, the allowance allocations provisions adopted in Part 243 (as well as the additional trading program provisions established under the CSAPR Update) are no longer in effect for New York's sources because those provisions have been replaced as to the state's sources by the new trading program provisions established under the Revised CSAPR Update.[28]

As of September 1, 2021, New York had not yet adopted revisions to 6 NYCRR Part 203, ''Oil and Gas Sector,'' [29] or NYCRR Part 228, Subpart 228–1, ''Motor Vehicle and Mobile Equipment Refinishing and Recoating Operation.''

EPA also notes that several of New York's rules that were approved into the SIP after EPA's receipt of this September 2018 submittal, such as NO_X limits on combustion turbines that operate as peaking units, will not be phased in until 2023–2025, which is past the July 20, 2021, Serious area attainment date for the 2008 ozone NAAQS.

Under the *Wisconsin* decision, states and EPA may not delay implementation of measures necessary to address good neighbor requirements beyond the next applicable attainment date without a showing of impossibility or necessity. *See* 938 F.3d at 320. The submission did not offer a demonstration of impossibility of earlier implementation of control measures that would go into effect after 2021.[30]

Additionally, New York said that the State's mobile on-road sector alone significantly impacted downwind monitors and noted that it controls its mobile emissions through its inspection/maintenance (I/M) and anti-idling standards. However, New York did not explain the role their I/M and anti-idling standards play in eliminating their significant contribution.

The EPA acknowledges that New York's RACT presumptive emissions limits and facility-specific emissions limits are based on inflation-adjusted control cost valued at $5,500 per ton of NO_X reduced. However, in light of continuing contribution to out of state receptors from the State (at step 1) despite these measures, New York's SIP submission failed to evaluate the availability of any additional air quality controls to improve downwind air quality at nonattainment and maintenance receptors at step 3.

In the analysis performed for the Revised CSAPR Update, the EPA determined that there are cost-effective controls available for EGUs in New York at a lower cost threshold than $5,500 per ton of NO_X reduced. Based on EPA's analysis in the Revised CSAPR Update, the EPA has determined that New York State NO_X emissions significantly impact nonattainment and interfere

[16] The NO_X emission limits are on a parts per million dry volume basis (ppmvd), corrected to 15 percent oxygen.

[17] New York submitted for SIP approval to the EPA on May 18, 2020. The EPA finalized approval on August 3, 2021. 86 FR 43956 (August 11, 2021).

[18] Distributed generation (DG) sources are engines used by host sites to supply electricity outside that supplied by distribution utilities. This on-site generation of electricity by DG sources is used by a wide-range of commercial, institutional and industrial facilities. DG applications range from supplying electricity during blackouts to all of a facility's electricity demand year-round. NY's DG rule applies to sources enrolled in demand response programs sponsored by the New York Independent System Operator or transmission utilities as well as sources used during times when the cost of electricity supplied by utilities is high (*i.e.,* price-responsive generation sources).

[19] New York submitted for SIP approval to the EPA on October 15, 2020.

[20] New York submitted for SIP approval to the EPA on February 23, 2021.

[21] As of September 1, 2021, New York had not submitted a revised version of subpart 218–7 to the EPA for SIP approval.

[22] The compliance date for the sale of products is January 1, 2021. The sell-through provision allows for product manufactured before January 1, 2021 to be sold through May 1, 2023.

[23] New York submitted for SIP approval to the EPA on October 15, 2020.

[24] New York submitted for SIP approval to the EPA on November 5, 2019. The EPA finalized approval on April 19, 2020. 85 FR 28490 (May 13, 2020).

[25] New York submitted for SIP approval to the EPA on March 3, 2021.

[26] New York submitted for SIP approval to the EPA on March 3, 2021.

[27] CSAPR provided a process for the submission and approval of SIP revisions to replace certain provisions of the CSAPR FIPs while the remaining FIP provisions continue to apply. This type of CSAPR SIP is termed an abbreviated SIP.

[28] The regulations implementing the Revised CSAPR Update provide that, for states subject to the Revised CSAPR Update and with respect to control periods after 2020, the EPA will no longer administer state trading program provisions approved under SIP revisions addressing the CSAPR Update's trading program. See 40 CFR 52.38(b)(16)(ii).

[29] New York filed a notice of proposed rulemaking on April 20, 2021. See *https://www.dec.ny.gov/regulations/122829.html.*

[30] While *Wisconsin* was decided after the state made its submission, EPA must evaluate the SIP based on the information available at the time of its action, including any relevant changes in caselaw or other requirements. States are generally free to withdraw and resubmit their SIP submissions in light of intervening changes in the law. The State of New York has not done so in this case.

with maintenance of the 2008 ozone NAAQS in other states. Additionally, the EPA has determined the NO_X emission reductions necessary to eliminate New York State's significant contribution and has finalized a NO_X ozone season emissions budget for the State.

Specifically, after assessing potential control strategies, the EPA identified an EGU control stringency that reflected the optimization of existing SCR controls and installation of state-of-the-art NO_X combustion controls, represented by a cost of $1,600 per ton of NO_X reduced; and the optimization of existing SNCR controls, represented by a cost of $1,800 per ton of NO_X reduced. The EPA then finalized EGU NO_X ozone season emissions budgets reflecting the identified EGU control stringency. New York's NO_X ozone season emission budget as determined by the EPA under the Revised CSAPR Update is 3,416 tons in 2021, and is further lowered to 3,403 tons in 2024, after which no further adjustments are required. The NO_X ozone season budgets from 2021 thru 2024 represent a two percent [31] reduction from a 2021–2024 baseline [32] to eliminate New York's significant contribution to nonattainment or interference with maintenance of the 2008 ozone NAAQS.

The SIP revision submitted by New York does not provide a demonstration that the existing permanent and federally enforceable control measures contained in the State's SIP achieve the emissions reductions needed to meet the obligations for New York in the CSAPR NO_X Ozone Season Group 3 Trading Program established in the Revised CSAPR Update The EPA modeling performed to evaluate New York's contributions and emissions reduction obligations already takes into consideration many of the emissions reduction programs identified by the State and, in the Revised CSAPR Update, the EPA found continuing contribution from New York to receptors in Connecticut in 2021 and later years. At a minimum, then, in order for the EPA to approve a SIP revision to replace the FIP promulgated in the Revised CSAPR Update, the State's SIP must obtain through federally enforceable emission controls the same or greater level of emissions reduction achieved by the FIP.

As provided in Section VII.D.3 of the preamble for the Revised CSAPR Update, should a state submit a SIP revision to replace the FIP that achieves the necessary emissions reductions but does not use the CSAPR NO_X Ozone Season Group 3 Trading Program, in order to best ensure its approvability, the SIP revision should include the following general elements: (1) A comprehensive baseline 2021 statewide NO_X emission inventory (which includes existing control requirements), which should be consistent with the 2021 emission inventory that EPA used to calculate the required state budget in this final action (unless the state can explain the discrepancy); (2) a list and description of control measures to satisfy the state emission reduction obligation and a demonstration showing when each measure would be in place to meet the 2021 and successive control periods; (3) fully-adopted state rules providing for such NO_X controls during the ozone season; (4) for EGUs greater than 25 MWe, monitoring and reporting under 40 CFR part 75, and for other units, monitoring and reporting procedures sufficient to demonstrate that sources are complying with the SIP (see 40 CFR part 51 subpart K (''source surveillance'' requirements)); and (5) a projected inventory demonstrating that state measures along with federal measures will achieve the necessary emission reductions in time to meet the 2021 compliance deadline.[33]

The New York SIP submittal did not provide a sufficient demonstration that the existing permanent and federally enforceable control measures already contained in the State's SIP achieve the emissions reductions needed to meet the obligations for New York in the CSAPR NO_X Ozone Season Group 3 Trading Program. The State did not apply the suggested analysis for making such a demonstration, nor did it provide an alternative method for doing so. Based on the deficiencies identified in the New York analysis, the EPA is proposing to disapprove the 2008 ozone New York Infrastructure SIP submission for both the prong 1 and prong 2 requirements of CAA section 110(a)(2)(D)(i)(I).

IV. Summary of New Jersey's SIP Revision and the EPA's Analysis

What did New Jersey submit?

In its May 13, 2019 SIP submittal, New Jersey followed the 4-step framework for evaluating its significant contribution. New Jersey provided air quality monitoring and modeling data, as well as a list of its adopted and implemented air pollution control measures to demonstrate that it satisfied its transport obligations for the 2008 ozone NAAQS.

New Jersey identified downwind air quality problems based on evaluating 2017 actual monitoring data. Nonattainment and maintenance receptor sites were identified at fourteen sites in Connecticut (in Fairfield, Middlesex, New Haven, and New London Counties), New York (in Richmond, and Suffolk Counties), and Pennsylvania (in Bucks and Philadelphia Counties) based on 2015–2017 design values exceeding 75 ppb. The highest reported concentrations were measured at two monitoring sites in Fairfield County, Connecticut (site numbers 90013007 and 90019003), which both had a 2015–2017 design value of 83 ppb.

In its SIP submittal to the EPA, New Jersey indicated that the State potentially significantly contributed to all fourteen nonattainment and maintenance receptors sites based on a predicted New Jersey contribution of more than 1 percent of the NAAQS (0.75 ppb) in 2017 based on EPA modeling performed for the CSAPR Update. New Jersey contribution ranged from 0.93 ppb to 11.90 ppb in 2017; the largest predicted contribution from New Jersey was to the Richmond County, New York monitoring site (site number 360850067).

New Jersey indicated in its submittal that the State was being conservative in its analysis for determining potential significant contribution by using 2017 actual data, rather than predicted concentrations from modeling for 2017 or 2023. New Jersey noted that 2023 is past the applicable date of evaluation when control measures are needed upwind to help downwind monitors reach attainment for either a Moderate classification attainment date of July 20, 2018, or a Serious classification attainment date of July 20, 2021. New Jersey also noted the State evaluated 2023 modeling [34] performed by the Ozone Transport Committee (OTC), and all monitors that New Jersey potentially significantly contributes to (*i.e.,* in the

[31] See Ozone Transport Policy Analysis Final Rule TSD available from the Revised CSAPR Update Docket ID No. EPA–HQ–OAR–2020–0272, via the Federal eRulemaking Portal: *https://www.regulations.gov.*

[32] Emissions projected in New York for each year in the absence of the Revised CSAPR Update.

[33] *See* 86 FR 23054, 23147–23148 (April 30, 2021) (describing expected elements needed to replace a Revised CSAPR Update FIP). In addition, should a state wish to adopt the Group 3 trading program itself into its SIP, the EPA regulations address replacing the Revised CSAPR Update FIP with a Revised CSAPR Update SIP at 40 CFR 52.38(b)(12).

[34] OTC modeling included in Appendix I of NJ submittal.

OTC/MANE–VU modeling domain 12-km modeling domain) were predicted to comply with the 2008 ozone NAAQS based on average and maximum projected design values below 75 ppb by 2023.

New Jersey asserted that it has demonstrated that it meets the good neighbor SIP requirements of the Clean Air Act for the 2008 ozone NAAQS by implementing statewide control measures that are more stringent than other upwind and nearby states. New Jersey asserted that considering air quality, emissions reductions from New Jersey's adopted measures, and the cost effectiveness of those measures, no additional emissions reductions from New Jersey are necessary to address its contribution to downwind nonattainment and maintenance areas.

New Jersey noted that from 1990 to 2017, annual NO_X and VOC emissions in New Jersey have each decreased approximately 77 percent. From 2011 to 2017, annual NO_X and VOC emissions decreased 31 percent and 17 percent, respectively. From 2002 to 2017, for point sources, NO_X was reduced by 81 percent and VOC emissions were reduced by 63 percent. New Jersey also noted that its point source emissions represent only about 8 percent of New Jersey's total NO_X emissions, while mobile sources were approximately 43 percent.

New Jersey stated that there has been a significant decreasing trend in 8-hour ozone design values in New Jersey, approximately 40 percent from 1988 to 2017 and 13 percent from 2011 to 2017. According to the State, the significant decrease demonstrates the impact of New Jersey control measures.

New Jersey provided a list [35] of its post-2002 adopted NO_X and VOC control measures, including estimated cost-effectiveness ($ (dollar) per ton of NO_X reduced or VOC reduced), and EPA's approval date [36] for many of the measures. New Jersey notes that the State has met Reasonably Available Control Measures (RACM) and RACT requirements and has gone beyond RACM/RACT by adopting control measures more stringent than Federal rules and rules adopted by other states. Furthermore, New Jersey states that its rules are implemented statewide and not limited to the Northern New Jersey-New York-Connecticut ozone nonattainment area. New Jersey highlighted several of their control measures:

—Power generation rules, including requirements for high electric demand days (HEDD) when ozone concentrations are highest. New Jersey estimates NO_X emissions reduction during HEDD to be over 60 tons from a baseline without the rules;
—municipal waste combustor controls;
—stationary reciprocating internal combustion engines (RICE) controls (as low as 37 kW) used for distributed generation or demand response (DG/DR), which the State noted are often operated on hot summer days that often coincide with high ozone days;
—mobile source controls including New Jersey's Low Emission Vehicle Program (NJ LEV) (based on California's program), which requires a certain percentage of Zero Emission Vehicles in the State, as well as its rules for vehicle idling and heavy-duty vehicle inspection and maintenance using on-board diagnostics technology; and
—various NO_X and VOC measures to address EPA Control Techniques Guideline (CTG), NO_X Alternative Control Technique (ACT) categories, and updated controls at gasoline dispensing facilities including California Air Resources Board (CARB) enhanced vapor recovery certified Phase I vapor recovery systems, dripless nozzles, and low permeation hoses.

Furthermore, New Jersey asserts that it has implemented its control measures before the 2008 attainment deadlines. New Jersey provides the example of the New Jersey power generation and HEDD rules being effective in 2015 or earlier. New Jersey further asserts that, when determining New Jersey significant contribution to interstate transport, the State should not be penalized for its early adoption of appropriate and effective rules in advance of and more stringent than other states.

In the State's evaluation of cost effectiveness, New Jersey claims that it has gone beyond the measures of other nearby and upwind states and previously established EPA cost effectiveness thresholds. The State notes that the cost-effectiveness values associated with many of its adopted rules are several times greater than the threshold of $1,400 per ton NO_X reduced set for upwind states in the CSAPR Update. For example, according to the State's list of existing NO_X and VOC control measures [37] included in its SIP submittal, the control measures for turbines operating during HEDD had a cost effectiveness of $44,000 per ton NO_X reduced; the control measures for oil-fired boilers operating during HEDD had a cost effectiveness up to $18,000 per ton NO_X reduced; and, for natural gas compressor engines and turbines rules adopted in 2017, the rules have a cost effectiveness up to $26,020 per ton NO_X reduced, with SCR costs up to $18,983 per ton NO_X reduced.

In its submittal to the EPA, New Jersey indicated that it believes the methodology that the EPA traditionally has used for evaluating the cost of implementing controls, using a ratio of annual emission reductions to the annualized cost, does not reflect the use of EGUs solely used during HEDD. New Jersey suggested an alternative methodology using a ratio of daily emission reduction on a HEDD day to the annualized cost (or DERACR) to address the higher HEDD NO_X emissions that far exceed an annual or ozone season average. New Jersey also noted that a short-term standard, such as the 8-hour ozone standard, should have a short-term cost-effectiveness formula. Further, using a short-term evaluation formula demonstrates that sources that emit high emissions on high ozone days, but have a low annual average, can be controlled using highly cost-effective measures. New Jersey included an example of this methodology in its submittal.

EPA's Review

EPA is proposing to find that the New Jersey SIP submittal does not meet the State's obligations with respect to prohibiting emissions that will contribute significantly to nonattainment or interfere with maintenance of the of the 2008 ozone NAAQS in any other state.

As previously indicated in this section, New Jersey acknowledged that it is linked to downwind receptors. New Jersey identified an even greater number of linkages to nonattainment and maintenance sites in other states than the EPA by using a more conservative approach. Specifically, the State analyzed current receptors using measured values rather than projected future receptors using modeling. Their analysis confirms the EPA's analysis in the Revised CSAPR Update that New Jersey is linked to nonattainment and/or maintenance receptors in downwind states. The State identified fourteen

[35] Table 5 of the SIP submittal.

[36] Control measures that the State identified as ''USEPA Approval Pending'' have been approved by the EPA as follows: The EPA finalized approval of the CTGs for Fiberglass Boat Manufacturing Materials; Industrial Cleaning Solvents; Miscellaneous Metal and Plastic Parts Coatings; Paper, Film, and Foil Coatings; and Natural Gas Engines and Turbines. 83 FR 50506 (October 9, 2018). The EPA approved revisions to New Jersey's I/M rules. 83 FR 21174 (May 9, 2018). The EPA finalized approval of New Jersey's Vapor Recovery 2017 Stage I and Refueling. 85 FR 36748 (June 18, 2020).

[37] Table 5 of the New Jersey SIP submittal.

nonattainment and maintenance sites in Connecticut, New York, and Pennsylvania based on 2015–2017 monitored design values exceeding the 2008 ozone NAAQS. New Jersey indicated that it potentially significantly contributed to all of the sites based on the predicted New Jersey contribution of more than 1 percent of the NAAQS (0.75 ppb) in 2017 using the EPA contribution modeling performed for the CSAPR Update.

Based on the air quality analysis for the Revised CSAPR Update, the EPA identified potential nonattainment receptors in 2021 in Stratford, Connecticut (monitor ID 090013007), and Westport, Connecticut (monitor ID 090019003), and maintenance area receptors in Madison, Connecticut (monitor ID 090099002), and Houston, Texas (monitor ID 482010024). New Jersey was linked to the nonattainment and maintenance receptor sites at the Connecticut sites based on contribution above the threshold of 1 percent of the 2008 ozone NAAQS (*i.e.,* 0.75 ppb). The levels of New Jersey State contribution to each nonattainment and maintenance receptor in 2021 are shown in Table 2:

TABLE 2—NEW JERSEY CONTRIBUTIONS TO DOWNWIND NONATTAINMENT AND MAINTENANCE AREAS

State	Nonattainment receptors		Maintenance receptors	
	Stratford, CT (ppb)	Westport, CT (ppb)	Madison, CT (ppb)	Houston, TX (ppb)
New Jersey	7.70	8.62	5.71	0.00

As previously noted in this section, New Jersey asserted in its May 2019 submittal that considering air quality, the emissions reductions from New Jersey's adopted measures, and the cost effectiveness of those measures, no additional emissions reductions from New Jersey are necessary to address its contribution to downwind nonattainment and maintenance areas. New Jersey stated that control measures were adopted and implemented before attainment deadlines and go beyond previously established EPA cost effectiveness thresholds. New Jersey also provided information documenting the emissions reductions that have been made throughout the State beginning in 2002 with corresponding improvements in air quality in New Jersey to demonstrate the impact of New Jersey control measures.

New Jersey, however, did not adequately demonstrate that the State was controlling its emissions despite the fact that the State conceded that it was potentially significantly contributing to 14 receptors in 2017 at steps 1 and 2. The SIP submittal pointed to its existing NO_X and VOC control measures that were adopted by the State to satisfy its good neighbor obligations. However, the State did not analyze whether additional control measures could reduce the impact of New Jersey's emissions on out of state receptors. Any additional control measures identified by the analysis would need to be submitted to the EPA for approval into the SIP, approved by the EPA, and made federally enforceable. Step 3 of the good neighbor framework requires that the state (or the EPA in the case of a FIP) conduct a more rigorous analysis of what emission controls are necessary to eliminate ''significant'' contribution to a downwind nonattainment or maintenance receptor. Merely identifying a range of various emissions control measures that have been or may be enacted at the state level, without analysis of the impact of those measures on the out of state receptors, is insufficient as an analytical matter. Further, step 4 of the good neighbor framework calls for those measures identified in step 3 which are necessary to eliminate significant contribution to be included in the state's SIP, so that they may be approved by EPA and rendered permanent and federally enforceable.

The EPA acknowledges that the State's control measures listed in the State's SIP submittal may be nominally more stringent than the EPA cost-thresholds used for the CSAPR Update or Revised CSAPR Update. Additionally, New Jersey's existing control measures have undoubtedly reduced the amount of transported ozone pollution to other states and have contributed to the downward emissions trends and improving air quality in the State as shown in the State's SIP submittal. However, in light of continuing contribution to out of state receptors from the State at steps 1 and 2 despite these measures, New Jersey's SIP submission failed to evaluate the availability of any additional air quality controls to improve downwind air quality at nonattainment and maintenance receptors at step 3.

In the Revised CSAPR Update, the EPA has determined that additional NO_X emissions reductions are available and necessary to eliminate New Jersey's significant contribution and has finalized a NO_X ozone season emissions budget for the State's EGUs. Specifically, after assessing potential control strategies, the EPA identified an EGU control stringency that reflected the optimization of existing SCR controls and installation of state-of-the-art NO_X combustion controls, represented by a cost of $1,600 per ton of NO_X reduced; and the optimization of existing SNCR controls, represented by a cost of $1,800 per ton of NO_X reduced. The EPA then finalized EGU NO_X ozone season emissions budgets reflecting the identified EGU control stringency. New Jersey's NO_X ozone season emissions budget as determined by the EPA under the Revised CSAPR Update is 1,253 tons in 2021 and subsequent years. The NO_X ozone season budgets from 2021 and beyond represent an approximate seven percent[38] reduction from a 2021 baseline of EGU emissions in New Jersey.[39] In the Revised CSAPR Update, the EPA determined that these reductions are necessary to eliminate New Jersey's significant contribution to nonattainment or interference with maintenance of the 2008 ozone NAAQS in other states.

The SIP revision submitted by New Jersey does not provide a demonstration that the existing permanent and federally enforceable control measures already contained in the State's SIP achieve the emissions reductions needed to meet New Jersey's obligations in the CSAPR NO_X Ozone Season Group 3 Trading Program established in the Revised CSAPR Update. The EPA modeling performed to evaluate New Jersey's contributions and emissions reduction obligations takes into consideration many of the emissions reduction programs identified by the State, and in the Revised CSAPR Update, yet the EPA found continuing contribution from New Jersey to

[38] See Ozone Transport Policy Analysis Final Rule TSD available from the Revised CSAPR Update Docket ID No. EPA–HQ–OAR–2020–0272, via the Federal eRulemaking Portal: *https://www.regulations.gov.*

[39] Emissions projected in New Jersey for each year in the absence of the Revised CSAPR Update.

receptors in Connecticut in 2021 and later years. At a minimum, then, in order for EPA to approve a SIP revision to replace the FIP promulgated in the Revised CSAPR Update, the State's SIP must obtain through federally enforceable emission controls the same or greater level of emissions reduction achieved by the FIP.

As provided in Section VII.D.3 of the preamble for the Revised CSAPR Update, should a state submit a SIP revision to replace the FIP that achieves the necessary emissions reductions but does not use the CSAPR NO_X Ozone Season Group 3 Trading Program, in order to best ensure its approvability, the SIP revision should include the following general elements: (1) A comprehensive baseline 2021 statewide NO_X emissions inventory (which includes existing control requirements), which should be consistent with the 2021 emission inventory that EPA used to calculate the required state budget in this final action (unless the state can explain the discrepancy); (2) a list and description of control measures to satisfy the state emissions reduction obligation and a demonstration showing when each measure would be in place to meet the 2021 and successive control periods; (3) fully-adopted state rules providing for such NO_X controls during the ozone season; (4) for EGUs greater than 25 MWe, monitoring and reporting under 40 CFR part 75, and for other units, monitoring and reporting procedures sufficient to demonstrate that sources are complying with the SIP (see 40 CFR part 51 subpart K (''source surveillance'' requirements)); and (5) a projected inventory demonstrating that state measures along with federal measures will achieve the necessary emissions reductions in time to meet the 2021 compliance deadline.[40]

The New Jersey SIP submittal did not provide a sufficient demonstration that the existing permanent and federally enforceable control measures already contained in the State's SIP achieve the emissions reductions needed to meet New Jersey's obligations in the CSAPR NO_X Ozone Season Group 3 Trading Program. The State did not apply the e suggested analysis for making such a demonstration, nor did it provide an alternative method for doing so. Based on the deficiencies identified in the New Jersey analysis, the EPA is proposing to disapprove the 2008 ozone New Jersey Infrastructure SIP submission for both the prong 1 and prong 2 requirements of CAA section 110(a)(2)(D)(i)(I).

[40] *See* 86 FR 23054, 23147–23148 (April 30, 2021) (describing expected elements needed to replace a Revised CSAPR Update FIP). In addition, should a state wish to adopt the Group 3 trading program itself into its SIP, EPA regulations address replacing the Revised CSAPR Update FIP with a Revised CSAPR Update SIP at 40 CFR 52.38(b)(12).

V. What action is EPA taking?

The EPA is proposing to disapprove the portion of the New York and New Jersey SIP submittals pertaining to the requirements of CAA section 110(a)(2)(D)(i)(I) regarding interstate transport of air pollution that will significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS (*i.e.,* CAA section 110(a)(2)(D)(i)(I) (prongs 1 and 2)) in other states. Disapproval does not start a mandatory sanctions clock pursuant to CAA section 179 because this action does not pertain to either a part D plan for nonattainment areas required under CAA section 110(a)(2)(I) or a SIP call pursuant to CAA section 110(k)(5). The EPA has amended FIPs, in a separate action finalizing the Revised CSAPR Update for the 2008 ozone NAAQS, to reflect the additional emissions reductions necessary to address New York's and New Jersey's significant contribution to nonattainment and interference with maintenance. Therefore, this action does not trigger a duty for the EPA to promulgate FIPs for either New York or New Jersey. The EPA is soliciting public comment on the issues discussed in this proposal. These comments will be considered before the EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by following the directions in the **ADDRESSES** section of this **Federal Register** document.

VI. Statutory and Executive Order Reviews

a. Executive Order 12866, Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the E.O.

b. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* because this proposed disapproval of SIP revisions under CAA section 110 will not create any new information collection burdens but simply proposes to disapprove certain State requirements for inclusion into the SIP.

c. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant impact on a substantial number of small entities under the RFA. This proposed rule does not impose any requirements or create impacts on small entities. This proposed SIP disapproval under CAA section 110 will not create any new requirements but simply proposes to disapprove certain State requirements, for inclusion into the SIP.

d. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

e. Executive Order 13132, Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

f. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP on which EPA is proposing action would not apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this proposed action.

g. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it simply proposes to disapprove certain state requirements for inclusion into the SIP.

h. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

i. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

j. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard.

This action merely proposes to disapprove certain state requirements for inclusion into the SIP.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 26, 2021.

Walter Mugdan,

Acting Regional Administrator, Region 2.

[FR Doc. 2021–23638 Filed 11–2–21; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 86, No. 210
Wednesday, November 3, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2021–0041]

Notice of Proposed Revision to Requirements for the Importation of Plums From Chile Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a commodity import evaluation document (CIED) relative to the importation into the United States of plums from Chile. Chile plums are currently subject to irradiation, either in Chile or in the United States, as a mitigation for European grapevine moth (EGVM). Based on the findings of the CIED, in addition to the option of irradiation, we are also proposing to authorize the importation of plums from Chile under a systems approach for EGVM, as well as an option for fumigation with methyl bromide. We are making the CIED available to the public for review and comment.

DATES: We will consider all comments that we receive on or before January 3, 2022.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2021–0041 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2021–0041, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *www.regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, Imports, Regulations, and Manuals, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2352; *claudia.ferguson@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart L—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 of the regulations provides the requirements for authorizing the importation of fruits and vegetables into the United States, as well as revising existing requirements for the importation of fruits and vegetables. Paragraph (c) of that section provides that the name and origin of all fruits and vegetables authorized importation into the United States, as well as the requirements for their importation, are listed on the internet in APHIS' Fruits and Vegetables Import Requirements database, or FAVIR (*https://epermits.aphis.usda.gov/manual*). It also provides that, if the Administrator of APHIS determines that any of the phytosanitary measures required for the importation of a particular fruit or vegetable are no longer necessary to reasonably mitigate the plant pest risk posed by the fruit or vegetable, APHIS will publish a notice in the **Federal Register** making its pest risk documentation and determination available for public comment.

Chile plums (*Prunus domestica*) are currently listed in FAVIR as authorized for importation into the United States; however, the requirements for such imports have recently changed. Following detections during preclearance inspections in Chile of European grapevine moth (EGVM; *Lobesia botrana*) larvae and pupae in plums intended for shipment to the United States, on April 1, 2021, APHIS issued a Federal Order (DA–2021–04) [1] modifying the requirements for such imports to prevent the introduction of EGVM. The Federal Order required plums exported to the United States from Chile to be irradiated with a minimum absorbed dose of 400 Gy upon arrival in the United States or subjected to methyl bromide fumigation that was conducted in Chile under an APHIS preclearance program. The allowance for methyl bromide fumigation provided for in the Federal Order ended on May 31, 2021.

The national plant protection organization (NPPO) of Chile has requested that APHIS revise the import requirements for plums from Chile to the United States to allow for alternative mitigations to address EGVM other than irradiation. In response to this request from the NPPO, APHIS prepared a commodity import evaluation document (CIED) titled ''Importation of Fresh Plums and Plum hybrids (*Prunus domestica*) from Chile into the United States using a systems approach to mitigate for European Grapevine Moth (*Lobesia botrana*).'' The CIED recommends that, in addition to irradiation, the EGVM risk associated with the importation of plums from Chile could also be mitigated by a systems approach or by methyl bromide fumigation in Chile or at the port of entry in the United States.

Therefore, in accordance with § 319.56–4(c), we are announcing the availability of our CIED for public review and comment. This document, as well as a description of the economic considerations associated with alternatives to the irradiation requirement, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request

[1] To view the Federal Order, go to: *https://www.aphis.usda.gov/import_export/plants/plant_imports/federal_order/downloads/2021/da-2021-04.pdf.*

paper copies of these documents by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding whether to revise the requirements for the importation of plums from Chile in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will revise the requirements for the importation of plums from Chile as described in this notice.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 28th day of October 2021.

Mark Davidson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–23904 Filed 11–2–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; 2022 Commodity Flow Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on July 23, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Department of Commerce.

Title: 2022 Commodity Flow Survey.

OMB Control Number: 0607–0932.

Form Number(s): CFS–1000.

Type of Request: Regular submission, Request for a Reinstatement, with Change, of a Previously Approved Collection.

Number of Respondents: 160,000.

Average Hours per Response: Quarters 1 and 4–2.5 hours; Quarters 2 and 3–1.5 hours.

Burden Hours: 1,280,000.

Needs and Uses: The U.S. Census Bureau plans to conduct the 2022 Commodity Flow Survey (CFS), a component of the 2022 Economic Census, as it is the only comprehensive source of multi-modal, system-wide data on the volume and pattern of goods movement in the United States. The CFS is conducted in partnership with the Bureau of Transportation Statistics (BTS), Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation (DOT) and the Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation.

The survey provides a crucial set of statistics on the value, weight, mode, and distance of commodities shipped by mining, manufacturing, wholesale, and selected retail and services establishments, as well as auxiliary establishments that support these industries. The Census Bureau will publish these shipment characteristics for the nation, census regions and divisions, states, and CFS defined geographic areas. As with the 2017 Commodity Flow Survey, this survey also identifies export, hazardous material, and temperature-controlled shipments.

BTS is mandated by Congress under Title 49 to collect economic data on transportation mode choice and goods movement. This information informs freight flows and is critical to understanding the use, performance, and condition of the nation's transportation system, as well as informing transportation investments. Data on the movement of freight also are important for effective analyses of changes in regional and local economic development, safety issues, and environmental concerns. They also provide the private sector with valuable data needed for critical decision-making on a variety of issues including market trends, analysis, and segmentation. Each day, governments, businesses, and consumers make countless decisions about where to go, how to get there, what to ship and which transportation modes to use. Transportation constantly responds to external forces such as shifting markets, changing demographics, safety concerns, weather conditions, energy and environmental constraints, and national defense requirements. Good decisions require having the right information in the right form at the right time.

The CFS provides critical data to federal, state and local government agencies to make a wide range of transportation investment decisions for developing and maintaining an efficient transportation infrastructure that supports economic growth and competitiveness.

Transportation planners require the periodic benchmarks provided by a continuing CFS to evaluate and respond to ongoing geographic shifts in production and distribution centers, as well as policies such as ''just in time delivery.''

The 2022 CFS will be an electronic reporting sample survey of approximately 160,000 business establishments in the mining, manufacturing, wholesale, and selected retail and services industries, as well as auxiliary establishments that support these industries. Respondents will report online for all four quarters of 2022, including the CFS expanded hazardous materials supplement in quarters 1 and 4.

The CFS is the primary source of information about freight movement in the United States. Estimates of shipment characteristics are published at different levels of aggregation. The CFS produces summary statistics and a public use data file. The survey covers shipments from establishments in the mining, manufacturing, wholesale, and selected retail industries, as well as auxiliary establishments that support these industries. Federal agencies, state and local transportation planners and policy makers, and private sector transportation managers, analysts, and researchers strongly support the conduct of the CFS.

Affected Public: Business or other for-profit organizations.

Frequency: The survey will be conducted quarterly over the course of one year.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 8(b), 131 and, 193. Title 13, U.S.C. 224 and 225 require response. The BTS also has authority to collect these data based on its enabling legislation, 49 U.S.C. 6302.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/*

public/do/PRAMain. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0932.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–23995 Filed 11–2–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Services Surveys: BE–9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance, in accordance with the Paperwork Reduction Act of 1995 (PRA), on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on August 24, 2021, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Bureau of Economic Analysis.

Title: Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States.

OMB Control Number: 0608–0068.

Form Number(s): BE–9.

Type of Request: Regular submission, extension of a current information collection.

Number of Respondents: 500 annually (125 filed each quarter; 115 reporting mandatory data, and 10 that would file exemption claims or voluntary responses).

Average Hours per Response: 6 hours is the average for those reporting data and one hour is the average for those filing an exemption claim. Hours may vary considerably among respondents because of differences in company size and complexity.

Burden Hours: 2,800 hours annually.

Needs and Uses: The data are needed to monitor U.S. trade in transport services, to analyze the impact of these cross-border services on the U.S. and foreign economies, to compile and improve the U.S. economic accounts, to support U.S. commercial policy on trade in services, to conduct trade promotion, and to improve the ability of U.S. businesses to identify and evaluate market opportunities. The data are used in estimating the trade in transport services component of the U.S. international transactions accounts (ITAs) and national income and product accounts (NIPAs).

Affected Public: Foreign airline operators.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108, as amended).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0608–0068.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–23936 Filed 11–2–21; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–51–2021]

Foreign-Trade Zone (FTZ) 84—Houston, Texas; Authorization of Production Activity; Schlumberger Technology Corporation, Reslink Product Center (Sand Screens and Related Accessories); Baytown and Houston, Texas

On July 1, 2021, Schlumberger Technology Corporation, Reslink Product Center submitted a notification of proposed production activity to the FTZ Board for its facilities within Subzone 84AA, in Baytown and Houston, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (86 FR 36522, July 12, 2021). On October 29, 2021, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: October 29, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–23937 Filed 11–2–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB454]

Endangered and Threatened Species; Recovery Plan for Main Hawaiian Islands Insular False Killer Whale Distinct Population Segment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the adoption of a Final Endangered Species Act (ESA) Recovery Plan for the endangered main Hawaiian Islands insular false killer whale (MHI IFKW) distinct population segment (DPS). The Final Recovery Plan (Plan) and associated Recovery Implementation Strategy for this species are now available.

ADDRESSES: Electronic copies of the Final Recovery Plan and Recovery Implementation Strategy are available on the NMFS website at *https://www.fisheries.noaa.gov/species/false-killer-whale#conservation-management.*

FOR FURTHER INFORMATION CONTACT: Krista Graham, (808) 725–5152, *krista.graham@noaa.gov;* or Kristen Koyama, (301) 427–8456, *kristen.koyama@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*) requires that we develop and implement recovery plans for the conservation and survival of threatened and endangered species under our jurisdiction, unless it is determined that such plans would not promote the conservation of the species. We designated the MHI IFKW (*Pseudorca crassidens*) as an endangered DPS under the ESA on November 28, 2012 (77 FR 70915). We published a Notice of Availability of the Draft Recovery Plan and Recovery Implementation Strategy (Draft Plans) in the **Federal Register** on October 16, 2020 (85 FR 65791) to obtain comments on the Draft Plans. We revised the Draft Plans based on the six comment submissions received from five agencies/organizations and one U.S. citizen, and these versions now constitute the Plan and Recovery Implementation Strategy for the MHI IFKW DPS.

The Final Plan

Recovery plans describe actions beneficial for the conservation and recovery of species listed under the ESA. Section 4(f)(1) of the ESA requires that recovery plans include, to the extent practicable: (1) Objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to achieve the recovery plan's goal. The ESA requires the development of recovery plans for each listed species unless a recovery plan would not promote its recovery.

The purpose of the Plan is to describe the vision of what a recovered MHI IFKW DPS looks like and the strategy or roadmap for how we plan to get to a recovered state. The goal of the Plan is to rebuild the extremely low population size while sufficiently abating threats, ultimately allowing for the species' removal from the Federal list of endangered and threatened species. The population should be large enough to be resilient to environmental variability over the coming decades as well as have a minimum of three social clusters with no more than half of the population within a single social cluster. This will ensure maximum genetic diversity and resiliency while still maintaining social connectedness. The recovery approach includes research, management, monitoring, and outreach to identify, reduce, or eliminate threats so the recovery objectives outlined in the Plan have the greatest likelihood of being achieved. Collectively, the goal, objectives, and criteria of the Plan represent NMFS' expectations of conditions to recover the MHI IFKW so the DPS no longer needs the protective measures provided by the ESA.

The recovery objectives and criteria in the Plan are based on the current literature as well as significant input from a variety of expert stakeholders. These experts, from a range of relevant disciplines including Federal and state agencies, scientists, commercial and recreational fishermen, conservation partners, and nongovernmental organizations, were convened during a four-day recovery planning workshop in 2016 to identify recovery criteria and actions to address threats to the species. Recovery criteria can be viewed as targets, or values, by which progress toward achievement of recovery objectives can be measured to make a downlisting (to threatened) and delisting decision. In the Plan, we frame recovery objectives and criteria in terms of both population parameters (demographic-based recovery criteria) and the five ESA listing factors found in the ESA section 4(a)(1) (threats-based recovery criteria). The demographic and threats-based recovery objectives and criteria for the MHI IFKW address threats from small population size, incidental take in fisheries, inadequate regulatory mechanisms, competition with fisheries for prey, environmental contaminants and biotoxins, anthropogenic noise, effects from climate change, and secondary threats and synergies. The Plan also includes the projected timeframe to recover the species, the estimated cost of implementing actions, and potential agencies/organizations involved with helping to recover the species.

Finally, accompanying the Plan is the Recovery Implementation Strategy, which is a flexible, operational document that provides specific, prioritized activities necessary to fully implement recovery actions in the Plan. This stepped-down approach will afford us the ability to modify these activities in real time to reflect changes in the information available as well as progress towards recovery. If/when the science indicates that meaningful changes to the recovery actions, objectives, and criteria are necessary, the Plan will be revised and go out for public comment.

How NMFS and Others Expect To Use the Plan

With adoption of this Plan, we will seek to implement the actions and activities for which we have authority and funding; encourage other Federal, state, and local agencies to implement recovery actions and activities for which they have responsibility, authority, and funding; and work cooperatively with the public and local stakeholders on implementation of other actions and activities. We expect the Plan to guide us and other Federal agencies in evaluating Federal actions under ESA section 7, as well as in implementing other provisions of the ESA, such as considering permits under section 10, and other statutes.

When we are considering a species for delisting, the agency will examine whether the ESA section 4(a)(1) listing factors have been addressed. To assist in this examination, we will use the delisting criteria described in the Plan, which include both demographic-based criteria and threats-based criteria addressing each of the ESA section 4(a)(1) listing factors, as well as any other relevant data and policy considerations.

Conclusion

NMFS has reviewed the Plan for compliance with the requirements of the ESA section 4(f), determined that it does incorporate the required elements, and is therefore adopting it as the Final Recovery Plan for the main Hawaiian Islands insular false killer whale DPS.

(Authority: 16 U.S.C. 1531 *et seq.*)

Dated: October 28, 2021.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–23899 Filed 11–2–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Proposal To Find That Ohio Has Satisfied Conditions on Earlier Approval

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and U.S. Environmental Protection Agency.

ACTION: Notice of proposed finding; request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) (hereafter, ''the agencies'')

invite public comment on the agencies' proposed finding that Ohio has satisfied all conditions the agencies established as part of their 2002 approval of the state's coastal nonpoint pollution control program (coastal nonpoint program). The Coastal Zone Act Reauthorization Amendments (CZARA) directs states and territories with coastal zone management programs previously approved under Section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs, which must be submitted to the federal agencies for approval. Prior to making such a finding, NOAA and EPA invite public input on the agencies' rationale for this proposed finding.

DATES: Individuals or organizations wishing to submit comments on the proposed findings document should do so by December 3, 2021.

ADDRESSES: Comments may be submitted by:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *regulation.gov* and enter NOAA–NOS–2020–0101 in the Search box, click the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Joelle Gore, Chief, Stewardship Division (N/OCM6), Office for Coastal Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910; phone (240) 533–0813; ATTN: Ohio Coastal Nonpoint Program.

Instructions: All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personally identifiable information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible. NOAA and EPA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The agencies will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed findings document may be found on *www.regulations.gov* (search for NOAA–NOS–2020–0101) and NOAA's Coastal Nonpoint Pollution Control Program website at *https://coast.noaa.gov/czm/pollutioncontrol/.* Additional background information on the State of Ohio's program may be obtained upon request from: Allison Castellan, Stewardship Division (N/OCM6), Office for Coastal Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, phone: (240) 533–0799, email: *allison.castellan@noaa.gov;* or Paul Thomas, U.S. EPA Region 5, Water Division, 77 W Jackson Boulevard, Chicago, Illinois, 60604, phone: (312) 886–7742, email: *thomas.paul@epa.gov.*

SUPPLEMENTARY INFORMATION: Section 6217(a) of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. 1455b(a), requires that each state (or territory) with a coastal zone management program previously approved under Section 306 of the Coastal Zone Management Act must prepare and submit to the federal agencies a coastal nonpoint pollution control program for approval. Ohio originally submitted its program to the agencies for approval in 1997. The agencies provided public notice of and invited public comment on their proposal to approve, subject to specific conditions, the Ohio program (66 FR 49643). The agencies approved the program by letter dated June 4, 2002, subject to the conditions specified at that time (67 FR 38471). The agencies propose to find, and invite public comment on the proposed findings, that Ohio has now fully satisfied all conditions associated with the earlier approval of its coastal nonpoint program.

The proposed findings document for Ohio's program is available at *www.regulations.gov* (search for NOAA–NOS–2020–0101) and information on the Coastal Nonpoint Program in general is available on the NOAA website at *https://coast.noaa.gov/czm/pollutioncontrol/.*

Nicole R. LeBoeuf,

Assistant Administrator for Ocean Services, National Oceanic and Atmospheric Administration.

Radhika Fox,

Assistant Administrator, Office of Water, Environmental Protection Agency.

[FR Doc. 2021–23948 Filed 11–2–21; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF DEFENSE

Notice of Decision for the Juniper Butte Range Land Withdrawal Extension, Mountain Home Air Force Base, Idaho

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of decision.

SUMMARY: The Air Force is publishing this notice of decision on the continuing Air Force need for Juniper Butte Range, Idaho Land Withdrawal and Extension for 25 Years.

ADDRESSES: Ms. Sheri Robertson 366 FW/PA, 366 Gunfighter Avenue, Suite 310, Mountain Home AFB 83648, (208) 828–2299; *sheri.robertson@us.af.mil.*

SUPPLEMENTARY INFORMATION: See Notice to Congress and the Secretary of the Interior below. The Air Force is publishing this final notice to inform state agencies and the public of the decision that there is a continuing need for Juniper Butte Range Land Withdrawal and of the extension for 25 years. In accordance with Public Law 105–261, Section 2915, this 25-year extension of the 1998 withdrawal will occur without a new authorization by Congress after notification to Congress and the Secretary of the Interior and a **Federal Register** and local newspaper publication of that notification and an accompanying 60-day comment period. Comments should be sent to the address provided above, and will be forwarded to the Secretaries of the Air Force and Interior.

Adriane Paris,

Acting Air Force Federal Register Liaison Officer.

BILLING CODE 5001–10–P

SECRETARY OF THE AIR FORCE
WASHINGTON

MAY 28 2021

The Honorable Jack Reed
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

We are notifying you, pursuant to section 2915(c)(2) of the *Juniper Butte Range Withdrawal Act,* Pub. L. No. 105-261, Title **XXIX,** 112 Stat. 2226 (Oct. 17, 1998), of the continuing military need for the lands withdrawn and reserved by the *Act.* The withdrawn lands are approximately 11,816 acres and are a part of the Mountain Home Range Complex in southern Idaho. This notice also specifies 25 years as the duration of the extension of withdrawal and reservation provided for by section 2915(c)(2)(B)(i) of the *Act.*

An Environmental Assessment (EA) was conducted to consider the potential environmental consequences of extending the public lands withdrawal established in the *Act.* The result was a Finding of No Significant Impact (FONSI). The Draft EA and FONSI were made available for public review and comment for a 60-day period beginning on April 10, 2019, and a public meeting was held in Mountain Home, Idaho on April 25, 2019. No public comments were received. The Final EA and signed FONSI are available at *https://www.mountainhome.af.mil/Home/Environmental-News/.* This notification will be published in the Federal Register and a local newspaper with a 60-day comment period.

An identical letter has been sent to the Ranking member of your Committee and to the Chairman and Ranking member of the House Armed Services Committee. In accordance with the *Act,* the Department of Interior will also be notified. Please direct questions about this action to our point of contact: Mr. Steve Arenson, SAF/IEI, 415-613-4686, steven.arenson@us.af.mil.

Sincerely,

John P. Roth
Acting

MAY 2 8 2021

ıorable Adam Smith
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515-6035

Dear Mr. Chairman:

We are notifying you, pursuant to section 2915(c)(2) of the *Juniper Butte Range Withdrawal Act,* Pub. L. No. 105-261, Title XXIX, 112 Stat. 2226 (Oct. 17, 1998), of the continuing military need for the lands withdrawn and reserved by the *Act.* The withdrawn lands are approximately 11,816 acres and are a part of the Mountain Home Range Complex in southern Idaho. This notice also specifies 25 years as the duration of the extension of withdrawal and reservation provided for by section 2915(c)(2)(B)(i) of the *Act.*

An Environmental Assessment (EA) was conducted to consider the potential environmental consequences of extending the public lands withdrawal established in the *Act.* The result was a Finding of No Significant Impact (FONSI). The Draft EA and FONSI were made available for public review and comment for a 60-day period beginning on April 10, 2019, and a public meeting was held in Mountain Home, Idaho on April 25, 2019. No public comments were received. The Final EA and signed FONSI are available at *https:llwww.mountainhome.af.mil/Home/Environmental-News/.* This notification will be published in the Federal Register and a local newspaper with a 60-day comment period.

An identical letter has been sent to the Ranking member of your Committee and to the Chairman and Ranking member of the Senate Armed Services Committee. In accordance with the *Act,* the Department of Interior will also be notified. Please direct questions about this action to our point of contact: Mr. Steve Arenson, SAF/IEI, 415-613-4686, steven.arenson@us.af mil.

Sincerely,

John P. Roth
Acting

MAY 2 8 2021

ıorable Deb Haaland
Secretary
Department of the Interior
Washington, DC 20240

Dear Madam Secretary:

We are notifying you pursuant to section 2915(c)(2) of the *Juniper Butte Range Withdrawal Act,* Pub. L. No. 105-261, Title XXIX, 112 Stat. 2226 (Oct. 17, 1998), of the continuing military need for the lands withdrawn and reserved by the *Act.* The withdrawn lands are approximately 11,816 acres and are a part of the Mountain Home Range Complex in southern Idaho. This notice also specifies 25 years as the duration of the extension of withdrawal and reservation provided for by section 2915(c)(2)(B)(i) of the *Act.*

An Environmental Assessment (EA) was conducted to consider the potential environmental consequences of extending the public lands withdrawal established in the *Act.* The result was a Finding of No Significant Impact (FONSI). The Draft EA and FONSI were made available for public review and comment for a 60-day period beginning on April 10, 2019, and a public meeting was held in Mountain Home, Idaho on April 25, 2019. No public comments were received. The Final EA and signed FONS! are available at *https:llwww.mountainhome.af.mil/Home/Environmental-Newsl.* This notification will be published in the Federal Register and a local newspaper with a 60-day comment period.

An identical letter has been sent to the Chairman and Ranking member of the Senate and House Armed Service Committees. Please direct questions regarding this action to our point of contact: Mr. Steve Arenson, SAF/IEI, 415-613-4686, steven.arenson@us.af.mil.

Sincerely,

John P. Roth
Acting

[FR Doc. 2021–23968 Filed 11–2–21; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF EDUCATION

Arbitration Panel Decisions Under the Randolph-Sheppard Act

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: This notice lists arbitration panel decisions under the Randolph-Sheppard Act that the Department of Education (Department) made publicly available in accessible electronic format during the second quarter of 2021. All decisions are available on the Department's website and by request.

FOR FURTHER INFORMATION CONTACT: James McCarthy, U.S. Department of Education, 400 Maryland Avenue SW, Room 5064D, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–6703. Email: *james.mccarthy@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll-free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: For the purpose of providing individuals who are blind with remunerative employment, enlarging their economic opportunities, and stimulating greater efforts to make themselves self-supporting, the Randolph-Sheppard Act, 20 U.S.C. 107 *et seq.* (Act), authorizes individuals who are blind to operate vending facilities on Federal property and provides them with a priority for doing so. The vending facilities include, among other things, cafeterias, snack bars, and automatic vending machines. The Department administers the Act and designates an

agency in each State—the State licensing agency (SLA)—to license individuals who are blind to operate vending facilities on Federal and other property in the State.

The Act provides for arbitration of disputes between SLAs and vendors who are blind and between SLAs and Federal agencies before three-person panels, convened by the Department, whose decisions constitute final agency action. 20 U.S.C. 107d–1. The Act also makes these decisions matters of public record and requires their publication in the **Federal Register**. 20 U.S.C. 107d–2(c).

The Department publishes lists of Randolph-Sheppard Act arbitration panel decisions in the **Federal Register**. The full texts of the decisions listed are available on the Department's website (see below) or by request (see 82 FR 41941 (Sept. 5, 2017)). Older, archived decisions are also added to the Department's website as they are digitized.

In the second quarter of 2021, the Department received no new decisions, but posted the following seven decisions issued by Randolph-Sheppard arbitration panels between May 2013 and May 2016.

Case name	Docket No.	Date	State
Bird v. Ohio Rehabilitation Services Commission, Bureau of Services for the Visually Impaired.	R–S/10–10	5/16/2013	Ohio.
Bragg v. Tennessee Department of Human Services Division of Rehabilitation Services	R–S/10–11	1/28/2015	Tennessee.
Kneip v. Idaho Commission for the Blind and Visually Impaired	R–S/12–03	6/22/2015	Idaho.
Stelmach v. Michigan Bureau of Services for Blind Persons	R–S/13–04	12/16/2015	Michigan.
Maryland State Department of Education v. United States General Services Administration	R–S/13–02	12/30/2015	Maryland.
Altstatt v. Oklahoma Division of Rehabilitation Services	R–S/13/01	1/18/2016	Oklahoma.
Murphy et al. v. California Department of Rehabilitation	R–S/12–10	2/04/2016	California.

These decisions and other decisions that we have already posted are searchable by key terms, are accessible under Section 508 of the Rehabilitation Act of 1973, as amended, and are available in Portable Document Format (PDF) on the Department's website at *www.ed.gov/programs/rsarsp/arbitration-decisions.html* or by request to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,

Acting Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2021–23989 Filed 11–2–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), U.S. Department of Energy (DOE).

ACTION: Notice.

SUMMARY: EIA submitted an information collection request for extension as required by the Paperwork Reduction Act of 1995. The information collection requests a three-year extension with changes to its Petroleum Marketing Program (PMP), OMB Control Number 1905–0174. The PMP collects and publishes data on the nature, structure, and efficiency of petroleum markets at national, regional, and state levels. EIA uses this information to monitor volumes and prices for crude oil and petroleum products.

DATES: Comments on this information collection must be received no later than December 3, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: If you need additional information, contact Tammy Heppner, U.S. Energy Information Administration, (202) 586–4748, or by email at *tammy.heppner@eia.gov.* The forms and instructions are available on EIA's website at *www.eia.gov/survey/.*

SUPPLEMENTARY INFORMATION:

This information collection request contains:

(1) *OMB No.* 1905–0174;

(2) *Information Collection Request Title:* Petroleum Marketing Program. The surveys in this information collection request are:

Form EIA–14 *Refiners' Monthly Cost Report;*

Form EIA–182 *Domestic Crude Oil First Purchase Report;*

Form EIA–782A *Refiners'/Gas Plant Operators' Monthly Petroleum Product Sales Report;*

Form EIA–782C *Monthly Report of Prime Supplier Sales of Petroleum Products Sold For Local Consumption;*

Form EIA–821 *Annual Fuel Oil and Kerosene Sales Report;*

Form EIA–856 *Monthly Foreign Crude Oil Acquisition Report;*

Form EIA–863 *Petroleum Product Sales Identification Survey;*

Form EIA–877 *Winter Heating Fuels Telephone Survey;*

Form EIA–878 *Motor Gasoline Price Survey;*

Form EIA–888 *On-Highway Diesel Fuel Price Survey;*

(3) *Type of Request:* Three-year extension with changes;

(4) *Purpose:* The surveys included in the Petroleum Marketing Program

collect volume and price information needed for determining the supply of and demand for crude oil and refined petroleum products. These surveys provide a basic set of data pertaining to the structure, efficiency, and behavior of petroleum markets. These data are published by EIA on its website, at *http://www.eia.gov.*

(4a) Changes to Information Collection:

Form EIA–888, On-Highway Diesel Fuel Price Survey

EIA is proposing to collect annual sales volumes of on-highway diesel fuel on Form EIA–888, *On-Highway Diesel Fuel Price Survey.* This survey collects weekly retail on-highway diesel fuel prices from a sample of truck stops and service stations and publishes price estimates at various regional levels and the State of California. EIA is updating its frame of retail diesel fuel outlets and proposing to redesign the sample of retail outlets using a new sample design. The new sample will replace the current sample that reports on Form EIA–888. EIA will continue to use Form EIA–888, Schedule A to collect weekly prices from the new sample and will use the new Form EIA–888, Schedule B to collect annual sales volume information and station characteristics that will be used to determine eligibility and size. EIA will use annual sales volumes of on-highway diesel fuel to determine the measure of size used for weighting data reported by the outlets selected in the new sample and are collected one time from newly sampled outlets.

Form EIA–878, Motor Gasoline Price Survey

EIA proposes to modify Schedule B of Form EIA–878, *Motor Gasoline Price Survey* to further clarify the collection of gasoline octane levels and ethanol content by grade for annual gasoline sales volumes. These volumes are used to determine a measure of size used for weighting data reported by the sampled outlets and are collected one time from newly sampled outlets.

Form EIA–877, Winter Heating Fuels Telephone Survey

EIA proposes to collect residential heating oil and propane prices on a monthly basis during the off-heating season (April to September) beginning April 2023 on Form EIA–877, *Winter Heating Fuels Telephone Survey.* This survey collects weekly residential heating oil and propane prices during the heating season, October to March, from a sample of retail outlets that sell these heating fuels. EIA receives many requests for EIA–877 summer prices each year since multiple factors can contribute to the pricing of residential heating fuels. Collecting monthly prices during the summer will meet the various customer needs, as well as provide a data series for more comprehensive EIA analysis on these markets.

Evaluative Methodology Techniques

EIA would like to conduct up to 50 evaluative methodology techniques each year for testing purposes. These methodologies will test or evaluate new terminology, unclear questions in surveys, unclear instructions, or questions that may be added to the Petroleum Marketing Program surveys. This will help improve ongoing surveys and reduce errors due to respondent confusion.

(5) *Annual Estimated Number of Respondents:* 22,628;

(6) *Annual Estimated Number of Total Responses:* 199,746;

(7) *Annual Estimated Number of Burden Hours:* 63,040;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $5,147,216 (63,040 annual burden hours multiplied by $81.65 per hour). EIA estimates that respondents will have no additional costs associated with the surveys other than the burden hours and the maintenance of the information during the normal course of business.

Statutory Authority: 15 U.S.C. 772(b), 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on October 29, 2021.

Samson A. Adeshiyan,

Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.

[FR Doc. 2021–23951 Filed 11–2–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC22–10–000.

Applicants: Skipjack Solar Center, LLC, AES Laurel Mountain, LLC, Mountain View Power Partners, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Skipjack Solar Center, LLC.

Filed Date: 10/27/21.

Accession Number: 20211027–5065.

Comment Date: 5 p.m. ET 11/17/21.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–12–000.

Applicants: Kings Creek Wind Farm 1 LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Kings Creek Wind Farm 1 LLC.

Filed Date: 10/26/21.

Accession Number: 20211026–5158.

Comment Date: 5 p.m. ET 11/16/21.

Docket Numbers: EG22–13–000.

Applicants: Kings Creek Wind Farm 2 LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Kings Creek Wind Farm 2 LLC.

Filed Date: 10/26/21.

Accession Number: 20211026–5159.

Comment Date: 5 p.m. ET 11/16/21.

Docket Numbers: EG22–14–000.

Applicants: Calhoun Solar Energy LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Calhoun Solar Energy LLC.

Filed Date: 10/27/21.

Accession Number: 20211027–5116.

Comment Date: 5 p.m. ET 11/17/21.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL22–3–000.

Applicants: Flint Mine Solar LLC v. *New York Independent System Operator, Inc.*

Description: Amended Complaint of Flint Mine Solar LLC for Refund of Milestone Deposit.

Filed Date: 10/27/21.

Accession Number: 20211027–5060.

Comment Date: 5 p.m. ET 11/3/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–1843–001.

Applicants: Ridgewind Power Partners, LLC.

Description: Notice of Non-Material Change in Status of Ridgewind Power Partners, LLC.

Filed Date: 10/27/21.

Accession Number: 20211027–5064.

Comment Date: 5 p.m. ET 11/17/21.

Docket Numbers: ER18–1639–000.

Applicants: Constellation Mystic Power, LLC.

Description: Formal Challenge of the New England States Committee on Electricity to September 15, 2021 Annual Informational Filing by Constellation Mystic Power, LLC.

Filed Date: 10/15/21.

Accession Number: 20211015–5229.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER18–1639–000.
Applicants: Constellation Mystic Power, LLC.
Description: Formal Challenges of the Eastern New England Customer-Owned Systems (Braintree Electric Light Department, et al) to September 15, 2021 Informational Filing by Constellation Mystic Power, LLC.
Filed Date: 10/15/21.
Accession Number: 20211015–5232.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER20–1317–003.
Applicants: Arizona Public Service Company.
Description: Compliance filing: Supplement to Amended Compliance Filing in Compliance with Order No. 864 to be effective 1/27/2020.
Filed Date: 10/27/21.
Accession Number: 20211027–5090.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER20–1836–001.
Applicants: Dominion Energy South Carolina, Inc.
Description: Compliance filing: Supplemental Order No. 864 Compliance filing to be effective 1/27/2020.
Filed Date: 10/27/21.
Accession Number: 20211027–5035.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER21–1225–003.
Applicants: Long Ridge Energy Generation LLC.
Description: Tariff Amendment: Response to Request for Information and Request for Expedited Processing to be effective 4/29/2021.
Filed Date: 10/27/21.
Accession Number: 20211027–5076.
Comment Date: 5 p.m. ET 11/10/21.
Docket Numbers: ER21–2509–001.
Applicants: ISO New England Inc., Cross-Sound Cable Company, LLC.
Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: ISO–NE & Cross Sound Cable; Revised OATT Schedule 18 to be effective 12/31/9998.
Filed Date: 10/27/21.
Accession Number: 20211027–5104.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER21–2900–001.
Applicants: Duke Energy Florida, LLC, Duke Energy Carolinas, LLC, Duke Energy Progress, LLC.
Description: Tariff Amendment: Duke Energy Florida, LLC submits tariff filing per 35.17(b): Errata Filing—Joint OATT—Revisions to Network Contract Demand Service to be effective 11/17/2021.
Filed Date: 10/26/21.
Accession Number: 20211026–5147.
Comment Date: 5 p.m. ET 11/16/21.
Docket Numbers: ER22–211–000.
Applicants: PacifiCorp.
Description: Tariff Amendment: Termination of UAMPS Construction Agreement—Lehi Temp Tap to be effective 1/17/2022.
Filed Date: 10/26/21.
Accession Number: 20211026–5141.
Comment Date: 5 p.m. ET 11/16/21.
Docket Numbers: ER22–212–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Address Anomalous Virtual Transaction Reference Prices to be effective 12/10/2021.
Filed Date: 10/26/21.
Accession Number: 20211026–5146.
Comment Date: 5 p.m. ET 11/16/21.
Docket Numbers: ER22–213–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii: ISO–NE and NEPOOL; Revisions to Remove Notarization Requirement Under the FAP to be effective 1/1/2022.
Filed Date: 10/27/21.
Accession Number: 20211027–5037.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER22–214–000.
Applicants: NSTAR Electric Company.
Description: Tariff Amendment: Cancellation—Cranberry Power Energy Storage LLC—Design & Engineering Agreement to be effective 10/8/2021.
Filed Date: 10/27/21.
Accession Number: 20211027–5038.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER22–215–000.
Applicants: Beulah Solar, LLC.
Description: Baseline eTariff Filing: Beulah Solar, LLC MBR Tariff to be effective 12/31/9998.
Filed Date: 10/27/21.
Accession Number: 20211027–5043.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER22–216–000.
Applicants: PGR 2021 Lessee 2, LLC.
Description: Baseline eTariff Filing: PGR 2021 Lessee 2, LLC MBR Tariff to be effective 12/31/9998.
Filed Date: 10/27/21.
Accession Number: 20211027–5044.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER22–217–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Attachment Y to Update Transmission Owner Selection Process to be effective 12/27/2021.
Filed Date: 10/27/21.
Accession Number: 20211027–5057.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER22–218–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Attachment W to Update Index of Grandfathered Agreements to be effective 1/1/2022.
Filed Date: 10/27/21.
Accession Number: 20211027–5058.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER22–219–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Modify Schedule 1–A to Increase Administration Cap to be effective 1/1/2022.
Filed Date: 10/27/21.
Accession Number: 20211027–5100.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER22–220–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Extension to Port of Oakland WDT SA 3 to be effective 12/27/2021.
Filed Date: 10/27/21.
Accession Number: 20211027–5107.
Comment Date: 5 p.m. ET 11/17/21.
Docket Numbers: ER22–221–000.
Applicants: DesertLink, LLC.
Description: Compliance filing: Annual TRBAA Filing to be effective 1/1/2022.
Filed Date: 10/27/21.
Accession Number: 20211027–5130.
Comment Date: 5 p.m. ET 11/17/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 27, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–23955 Filed 11–2–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–208–000]

CMC Steel US LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of CMC Steel US LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 16, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: October 27, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–23953 Filed 11–2–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC22–11–000.

Applicants: Coram California Development, L.P., Tusk Wind Holdings V, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Coram California Development, L.P., et al.

Filed Date: 10/27/21.

Accession Number: 20211027–5179.

Comment Date: 5 p.m. ET 11/17/21.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–15–000.

Applicants: ENGIE 2020 ProjectCo-NH1 LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of ENGIE 2020 ProjectCo-NH1 LLC.

Filed Date: 10/27/21.

Accession Number: 20211027–5166.

Comment Date: 5 p.m. ET 11/17/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–150–001.

Applicants: Public Service Company of New Mexico.

Description: Tariff Amendment: Supplement to Pseudo Tie Agreement with Red Cloud Wind, Rate Schedule No. 176 to be effective 11/1/2021.

Filed Date: 10/27/21.

Accession Number: 20211027–5162.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–222–000.

Applicants: MATL LLP.

Description: § 205(d) Rate Filing: Funding Agreement Filing to be effective 1/1/2022.

Filed Date: 10/27/21.

Accession Number: 20211027–5140.

Comment Date: 5 p.m. ET 11/17/21.

Docket Numbers: ER22–223–000.

Applicants: Otter Tail Power Company.

Description: § 205(d) Rate Filing: Revisions to Operating Services Agreement with CPEC, Service Agreement No. 54 to be effective 1/1/2022.

Filed Date: 10/27/21.

Accession Number: 20211027–5144.

Comment Date: 5 p.m. ET 11/17/21.

Docket Numbers: ER22–224–000.

Applicants: Gulf Power Company.

Description: § 205(d) Rate Filing: Request for Waiver and Amendments to Open Access Transmission Tariff to be effective 1/1/2022.

Filed Date: 10/27/21.

Accession Number: 20211027–5147.

Comment Date: 5 p.m. ET 11/17/21.

Docket Numbers: ER22–225–000.

Applicants: Avista Corporation.

Description: § 205(d) Rate Filing: Avista Corp OATT Revisions for EIM Entry to be effective 2/1/2022.

Filed Date: 10/27/21.

Accession Number: 20211027–5150.

Comment Date: 5 p.m. ET 11/17/21.

Docket Numbers: ER22–226–000.

Applicants: Avista Corporation.

Description: § 205(d) Rate Filing: Avista Corp OATT Revisions for EIM Entry to be effective 2/1/2022.

Filed Date: 10/27/21.

Accession Number: 20211027–5165.

Comment Date: 5 p.m. ET 11/17/21.

Docket Numbers: ER22–227–000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: RS 328—Certificate of Concurrence to NorthernGrid Funding Agreement to be effective 1/1/2022.

Filed Date: 10/28/21.

Accession Number: 20211028–5000.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–228–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–10–28_SA 2110 GRE–GRE–OTP 1st Rev GIA (G876 G877) to be effective 1/1/2022.

Filed Date: 10/28/21.

Accession Number: 20211028–5031.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–229–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Interim ISA, Service Agreement

No. 6215; Queue No. AD1–152 to be effective 9/29/2021.

Filed Date: 10/28/21.

Accession Number: 20211028–5038.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–230–000.

Applicants: Midcontinent Independent System Operator, Inc., Northern Indiana Public Service Company LLC.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2021–10–28_NIPSCO Attachment GG Filing to be effective 12/28/2021.

Filed Date: 10/28/21.

Accession Number: 20211028–5042.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–231–000.

Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2021–10–28_SA 3730 ATC-New Glarus D–T to be effective 12/1/2021.

Filed Date: 10/28/21.

Accession Number: 20211028–5045.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–232–000.

Applicants: Avista Corporation.

Description: § 205(d) Rate Filing: Avista Corp FERC RS T1158–1 Certificate of Concurrence Northern Grid Funding Agm to be effective 1/1/2022.

Filed Date: 10/28/21.

Accession Number: 20211028–5064.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–233–000.

Applicants: Portland General Electric Company.

Description: § 205(d) Rate Filing: 2022 Transmission Rate Case to be effective 1/1/2022.

Filed Date: 10/28/21.

Accession Number: 20211028–5068.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–234–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 50 to be effective 2/26/2020.

Filed Date: 10/28/21.

Accession Number: 20211028–5071.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–234–001.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Amendment: Amendment to Rate Schedule FERC No. 50 to be effective 10/29/2021.

Filed Date: 10/28/21.

Accession Number: 20211028–5073.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–235–000.

Applicants: MATL LLP.

Description: § 205(d) Rate Filing: Attachment K Amendments and Cancellation of Rate Schedule No. 5 to be effective 12/31/2021.

Filed Date: 10/28/21.

Accession Number: 20211028–5077.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–236–000.

Applicants: Nevada Power Company.

Description: § 205(d) Rate Filing: NPC Cert of Concurrence NorthernGrid (Rate Schedule No. 168) to be effective 1/1/2022.

Filed Date: 10/28/21.

Accession Number: 20211028–5082.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–237–000.

Applicants: PacifiCorp.

Description: Tariff Amendment: Termination UAMPS Construction Agreement—Lehi (Upgrades to Eagle Mtn) to be effective 1/17/2022.

Filed Date: 10/28/21.

Accession Number: 20211028–5089.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–238–000.

Applicants: PacifiCorp.

Description: Tariff Amendment: Termination UAMPS Construction Agmt—Lehi Temp Tap Additional to be effective 1/17/2022.

Filed Date: 10/28/21.

Accession Number: 20211028–5102.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–239–000.

Applicants: EcoGrove Wind LLC.

Description: § 205(d) Rate Filing: Cotenancy and Shared Facilities Agreement to be effective 12/28/2021.

Filed Date: 10/28/21.

Accession Number: 20211028–5124.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–240–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: DEC–WCU-Carolina Power Partners Rate Schedule No. 548 Dynamic Trans. Agreement to be effective 1/1/2022.

Filed Date: 10/28/21.

Accession Number: 20211028–5127.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–241–000.

Applicants: Aragonne Wind LLC.

Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 12/15/2021.

Filed Date: 10/28/21.

Accession Number: 20211028–5128.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–242–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 6208; Queue No. AG1–130 to be effective 9/30/2021.

Filed Date: 10/28/21.

Accession Number: 20211028–5131.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–243–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: DEC-New River-Carolina Power Partners Rate Schedule No. 547 Dynamic Trans. Agmt to be effective 1/1/2022.

Filed Date: 10/28/21.

Accession Number: 20211028–5150.

Comment Date: 5 p.m. ET 11/18/21.

Docket Numbers: ER22–245–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Engineering and Procurement Agreement—Copco No. 1 to be effective 12/27/2021.

Filed Date: 10/28/21.

Accession Number: 20211028–5182.

Comment Date: 5 p.m. ET 11/18/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at:*http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 28, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–23961 Filed 11–2–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR21–61–001.

Applicants: Whistler Pipeline LLC.
Description: Submits tariff filing per 284.123(b),(e)/: Amendment to 1 to be effective 8/1/2021 under PR21–61 Filing.
Filed Date: 10/25/21.
Accession Number: 202111025–5109.
Comments/Protests Due: 5 p.m. ET 11/15/21.
Docket Numbers: RP22–88–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Twin Eagle 911817 and 911818 to be effective 11/1/2021.
Filed Date: 10/27/21.
Accession Number: 20211027–5017.
Comment Date: 5 p.m. ET 11/8/21.
Docket Numbers: RP22–89–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Sequent 911825 eff 11–1–2021 to be effective 11/1/2021.
Filed Date: 10/27/21.
Accession Number: 20211027–5020.
Comment Date: 5 p.m. ET 11/8/21.
Docket Numbers: RP22–90–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Chesapeake 911801 and 911802 to be effective 11/1/2021.
Filed Date: 10/27/21.
Accession Number: 20211027–5042.
Comment Date: 5 p.m. ET 11/8/21.
Docket Numbers: RP22–91–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—BUG 911814 eff 11–1–2021 to be effective 11/1/2021.
Filed Date: 10/27/21.
Accession Number: 20211027–5053.
Comment Date: 5 p.m. ET 11/8/21.
Docket Numbers: RP22–92–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Equinor Amendment 910953 to be effective 11/1/2021.
Filed Date: 10/27/21.
Accession Number: 20211027–5077.
Comment Date: 5 p.m. ET 11/8/21.
Docket Numbers: RP22–93–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—UGI 911777 eff 11–1–2021 to be effective 11/1/2021.
Filed Date: 10/27/21.
Accession Number: 20211027–5103.
Comment Date: 5 p.m. ET 11/8/21.
Docket Numbers: RP22–94–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: Compliance filing: Transco Annual Penalty Revenue Sharing Report 2021 to be effective N/A.
Filed Date: 10/28/21.
Accession Number: 20211028–5019.
Comment Date: 5 p.m. ET 11/9/21.
Docket Numbers: RP22–95–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Service Amds—Ascent & Antero to be effective 11/1/2021.
Filed Date: 10/28/21.
Accession Number: 20211028–5050.
Comment Date: 5 p.m. ET 11/9/21.
Docket Numbers: RP22–96–000.
Applicants: Ruby Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Ruby FLU and EPC Update Filing to be effective 12/1/2021.
Filed Date: 10/28/21.
Accession Number: 20211028–5066.
Comment Date: 5 p.m. ET 11/9/21.
Docket Numbers: RP22–97–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Shell 911829 to be effective 11/1/2021.
Filed Date: 10/28/21.
Accession Number: 20211028–5070.
Comment Date: 5 p.m. ET 11/9/21.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP21–1129–001.
Applicants: ANR Pipeline Company.
Description: Compliance filing: ANR Best Bid Evaluation Compliance to be effective 10/20/2021.
Filed Date: 10/28/21.
Accession Number: 20211028–5033.
Comment Date: 5 p.m. ET 11/9/21.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 28, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–23960 Filed 11–2–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–1–000]

Commission Information Collection Activities (Ferc–725); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725 (Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards).

DATES: Comments on the collection of information are due January 3, 2022.

ADDRESSES: You may submit your comments (identified by Docket No. IC22–1–000) by one of the following methods:

Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

○ *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (including courier) delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this

docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725, Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards.

OMB Control No.: 1902–0225.

Type of Request: Three-year extension of the FERC–725 information collection requirements with no changes to the current reporting and recordkeeping requirements.

Abstract: The FERC–725 contains the following information collection elements: Self Assessment and ERO (Electric Reliability Organization) Application: The Commission requires the ERO to submit to FERC a performance assessment report every five years. The next assessment is due in 2024. Each Regional Entity submits a performance assessment report to the ERO.

Submitting an application to become the ERO is also part of this collection.[1]

Reliability Assessments: 18 CFR 39.11 requires the ERO to assess the reliability and adequacy of the Bulk-Power System in North America. Subsequently, the ERO must report to the Commission on its findings. Regional entities perform similar assessments within individual regions. Currently the ERO submits to FERC three assessments each year: Long term, winter, and summer. In addition, the North American Electric Reliability Corporation (NERC, the Commission-approved ERO) also submits various other assessments as needed.

Reliability Standards Development: Under section 215 of the Federal Power Act (FPA),[2] the ERO is charged with developing Reliability Standards. Regional Entities may also develop regional specific standards and have standard experts on staff to work with entities below the regional level.

Reliability Compliance: Reliability Standards are mandatory and enforceable upon approval by the Commission. In addition to the specific information collection requirements contained in each standard (cleared under other information collections), there are general compliance, monitoring and enforcement information collection requirements imposed on applicable entities. Audits, spot checks, self-certifications, exception data submittals, violation reporting, and mitigation plan confirmation are included in this area.

Stakeholder Survey: The ERO uses a stakeholder survey to solicit feedback from registered entities[3] in preparation for its five year self-performance assessment. The Commission assumes that the ERO will perform another survey prior to the 2024 self-assessment.

Other Reporting: This category refers to all other reporting requirements imposed on the ERO or regional entities in order to comply with the Commission's regulations. For example, FERC may require NERC to submit a special reliability assessment or inquiry. This category captures these types of one-time filings required of NERC or the Regions. The Commission implements its responsibilities through 18 CFR part 39.

Type of Respondent: Electric Reliability Organization, Regional entities, and registered entities.

Estimate of Annual Burden:[4] The Commission estimates the total annual burden and cost[5] for this information collection in the table below. For hourly cost (for wages and benefits), we estimate that 70% of the time is spent by Electrical Engineers (code 17–2071, at $72.15/hr.), 20% of the time is spent by Legal (code 23–0000, at $142.25/hr.), and 10% by Office and Administrative Support (code 43–0000, at $44.47/hr.). Therefore, we use the weighted hourly cost (for wages and benefits) of $83.40 (rounded) {or [(0.70) * ($72.15/hr.)] + [(0.20) * $142.25/hr.] + [(0.10) * $44.47/hr.]}.

FERC–725, CERTIFICATION OF ELECTRIC RELIABILITY ORGANIZATION; PROCEDURES FOR ELECTRIC RELIABILITY STANDARDS

Type of respondent	Type of reporting requirement	Number of respondents (A)	Annual number of responses per respondent (B)[6]	Total number of responses (A) × (B) = (C)	Average burden hours & cost ($) per response (rounded) (D)	Estimated total annual burden hrs. & cost ($) (rounded) (C) × (D)
Electric Reliability Organization (ERO).	Self-Assessment		.2	.2	4,160 hrs.; $346,950	832 hrs.; $69,390.
	Reliability Assessments		5.0	5.0	10,400 hrs.; $867,360	52,000 hrs.; $4,336,800.
	Reliability Compliance		2	2	17,680 hrs.; $1,474,512	35,360 hrs.; $2,949,024.
	Standards Development		1	1	20,800 hrs.; $1,734,720	35,360 hrs.; $2,949,024.
	Other Reporting	1	1	1	4,160 hrs.; $346,944	4,160 hrs.; $346,944.
ERO, Sub-Total						*113,152 hrs.; $9,436,877.*
Regional Entities	Self-Assessment		.2	1.2	4,160 hrs.; $346,944	4,992 hrs.; $416,332.8.
	Reliability Assessments		1	6	15,600 hrs.; $1,301,040	93,600 hrs.; $7,806,240.
	Reliability Compliance		1	6	47,840 hrs.; $3,989,856	287,040 hrs.; $23,939,136.
	Standards Development		1	6	4,680 hrs.; $390,312	28,080 hrs.; $2,341,872.
	Other Reporting	6	1	6	1,040 hrs.; $86,736	7,280 hrs.; $607,152.
Regional Entities, Sub-Total.						*420,992 hrs.; $35,110,732.6.*

[1] The Commission does not expect any new ERO applications to be submitted in the next five years and is not including any burden for this requirement in the burden estimate. FERC still seeks to renew the regulations pertaining to a new ERO application under this renewal but is expecting the burden to be zero for the foreseeable future. 18 CFR 39.3 contains the regulation pertaining to ERO applications.

[2] 16 U.S.C. 824o.

[3] A ''registered entity'' is an entity that is registered with the ERO. All Bulk-Power System owners, operators and users are required to register with the ERO. Registration is the basis for determining the Reliability Standards with which an entity must comply. See *http://www.nerc.com/page.php?cid=3%7C25* for more details.

[4] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[5] Costs (for wages and benefits) are based on wage figures from the Bureau of Labor Statistics (BLS) for May 2021 (at *https://www.bls.gov/oes/current/naics2_22.htm*) and benefits information (at *https://www.bls.gov/news.release/ecec.nr0.html.*)

[6] In instances where the number of responses per respondent is ''1,'' the Commission Staff thinks that the actual number of responses varies and cannot be estimated accurately.

FERC–725, CERTIFICATION OF ELECTRIC RELIABILITY ORGANIZATION; PROCEDURES FOR ELECTRIC RELIABILITY STANDARDS—Continued

Type of respondent	Type of reporting requirement	Number of respondents (A)	Annual number of responses per respondent (B) [6]	Total number of responses (A) × (B) = (C)	Average burden hours & cost ($) per response (rounded) (D)	Estimated total annual burden hrs. & cost ($) (rounded) (C) × (D)
Registered Entities	Stakeholder Survey		.2	299.2	8 hrs.; $667.20	2,393.6 hrs.; $199,626.2.
	Reliability Compliance	*1,496	1	1,496	400 hrs.; $33,360	598,400 hrs.; $49,906,186.
Registered Entities, Sub-Total.						*600,793.60 hrs.; $50,106,186.*
Total Burden Hrs. and Cost.						1,134,938 hrs.; $94,653,796.

*Estimated.

As indicated in the table, there was a decrease from seven to six in the number of Regional Entities because the Florida Reliability Coordinating Council (FRCC) dissolved in July 2019. Other changes from previous estimates are based on new data in the proposed NERC 2022 Business Plan and Budget to reflect changes in the number of FTEs (full-time equivalent employees) working in applicable areas. Reviewing the NERC Compliance database, we determined the number of unique U.S. entities is 1,496 (compared to the previous value of 1,409). Lastly, in several instances, the amount of time an FTE devotes to a given function may have been increased or decreased.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: October 28, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–23962 Filed 11–2–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–210–000]

ENGIE 2020 ProjectCo-NH1, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of ENGIE 2020 ProjectCo-NH1 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 16, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: October 27, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–23954 Filed 11–2–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–39–001.
Applicants: Destin Pipeline Company, L.L.C.
Description: Destin Pipeline Company, L.L.C. submits tariff filing per 154.205(b): Destin Amended Housekeeping Filing to be effective 11/13/2021.
Filed Date: 10/22/21.
Accession Number: 20211022–5121.
Comments Due: 5 p.m. ET 11/3/21.

Docket Numbers: RP22–85–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Volume No. 2—Vitol Inc. SP365319 to be effective 11/1/2021.
Filed Date: 10/26/21.
Accession Number: 20211026–5070.
Comment Date: 5 p.m. ET 11/8/21.

Docket Numbers: RP22–86–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Sundance—Duke Energy Progress—2nd Extension to be effective 11/26/2021.
Filed Date: 10/26/21.
Accession Number: 20211026–5073.
Comment Date: 5 p.m. ET 11/8/21.

Docket Numbers: RP22–87–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—ConEd 911792 to be effective 11/1/2021.
Filed Date: 10/26/21.
Accession Number: 20211026–5134.
Comment Date: 5 p.m. ET 11/8/21.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP22–40–001.
Applicants: Double E Pipeline, LLC.
Description: Tariff Amendment: Double E Pipeline Tariff Implementation & Compliance Filing Amendment (RP22–40-) to be effective 11/15/2021.
Filed Date: 10/26/21.
Accession Number: 20211026–5135.
Comment Date: 5 p.m. ET 11/8/21.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at:*http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 27, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–23956 Filed 11–2–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10855–345]

Upper Peninsula Power Company; Notice of Application for Amendment of License, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. *Type of Proceeding:* Request for temporary variances of Article 402.
b. *Project No.:* 10855–345.
c. *Date Filed:* October 14, 2021.
d. *Licensee:* Upper Peninsula Power Company.
e. *Name of Project:* Dead River Hydroelectric Project.
f. *Location:* The project is located on the Dead River, in Marquette County, Michigan.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.
h. *Licensee Contact:* Mr. Virgil Schlorke, Upper Peninsula Power Company, 800 Greenwood Street, Ishpeming, MI 49849, (906) 485–2480.
i. *FERC Contact:* Brian Bartos, (202) 502–6679, *Brian.Bartos@ferc.gov.*
j. Deadline for filing comments, motions to intervene, and protests, is November 29, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include docket number P–10855–033. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The applicant requests a temporary variance from the surface elevation requirements under Article 402 at the Silver Lake Storage Basin (SLSB) and Dead River Storage Basin (DRSB) due to ongoing drought conditions at the project. The applicant is currently in dry year consultation with the Michigan Department of Natural Resources, Michigan Department of Environment, Great Lakes, and Energy, and U.S. Fish and Wildlife Service. Due to the potential long-term nature of the variance, the applicant requests a temporary variance from the license requirements until impoundment elevations return to normal levels.

Additionally, the applicant proposes to modify the start-of-month target reservoir surface elevation requirements at the SLSB and DRSB for the year 2022. Specifically, the applicant proposes to increase the SLSB start-of-month target elevations in February and March from

1,477.5 to 1,479.0 feet National Geodetic Vertical Datum (NGVD); April from 1,477.5 to 1,485.0 feet NGVD; May from 1,479.0 to 1,485.0 feet NGVD; June from 1,481.0 to 1,485.0 feet NGVD; July from 1,481.5 to 1,485.0 feet NGVD; August from 1,480.0 to 1,482.5 feet NGVD; September and October from 1,479.5 to 1480.0 feet NGVD. The licensee would continue to maintain the target elevations for the remaining months as required by Article 402. The applicant proposes to increase the DRSB start-of-month target elevation for May from 1,340.0 to 1,341.0 feet NGVD. The applicant states that the temporary variance will allow the applicant to continue to determine if there are operational modifications that can be employed to improve water quality in the Dead River, as well as to proactively allow for increased storage in the impoundments in the event that the watershed receives significant precipitation and/or snowmelt in the spring.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: October 28, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–23957 Filed 11–2–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0467; FRL–8954–01–ORD]

Board of Scientific Counselors (BOSC) Safe and Sustainable Water Resources Subcommittee Meeting—December 2021

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA), Office of Research and Development (ORD), gives notice of a series of virtual meetings of the Board of Scientific Counselors (BOSC) Safe and Sustainable Water Resources (SSWR) Subcommittee to discuss the SSWR research program on nutrients and harmful algal blooms.

DATES: 1. The meeting will be held over two days via videoconference:

a. Wednesday, December 1, 2021, from 12 p.m. to 5 p.m. (EDT); and

b. Thursday, December 2, 2021, from 12 p.m. to 5 p.m. (EDT).

Attendees must register by November 30, 2021.

2. A BOSC deliberation videoconference will be held on December 14, 2021, from 11 a.m. to 2 p.m. (EDT).

Attendees must register by December 13, 2021.

3. A final BOSC deliberation videoconference will be held on December 20, 2021, from 11 a.m. to 2 p.m. (EDT).

Attendees must register by December 17, 2021.

Meeting times are subject to change. This series of meetings is open to the public. Comments must be received by November 30, 2021, to be considered by the subcommittee. Requests for the draft agenda or making a presentation at the meeting will be accepted until November 30, 2021.

ADDRESSES: Instructions on how to connect to the videoconference will be provided upon registration at: *https://epa-bosc-sswr-subcommittee-mtg.eventbrite.com*.

Submit your comments to Docket ID No. EPA–HQ–ORD–2015–0467 by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Note:* comments submitted to the *www.regulations.gov* website are anonymous unless identifying information is included in the body of the comment.
- *Email:* Send comments by electronic mail (email) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2015–0467.
- *Note:* comments submitted via email are not anonymous. The sender's email will be included in the body of the comment and placed in the public docket which is made available on the internet.

Instructions: All comments received, including any personal information provided, will be included in the public docket without change and may be made available online at *www.regulations.gov*. Information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute will not be included in the public docket and should not be submitted through *www.regulations.gov* or email. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets/*.

Public Docket: Publicly available docket materials may be accessed *Online* at *www.regulations.gov*.

Copyrighted materials in the docket are only available via hard copy. The telephone number for the ORD Docket Center is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer (DFO), Tom Tracy, via phone/voicemail at: 919–541–4334; or via email at: *tracy.tom@epa.gov*.

Any member of the public interested in receiving a draft agenda, attending the meeting, or making a presentation at the meeting should contact Tom Tracy no later than November 30, 2021.

SUPPLEMENTARY INFORMATION: The Board of Scientific Counselors (BOSC) is a federal advisory committee that

provides advice and recommendations to EPA's Office of Research and Development on technical and management issues of its research programs. The meeting agenda and materials will be posted to *https://www.epa.gov/bosc*.

Proposed agenda items for the meeting include, but are not limited to, the following: SSWR research program on nutrients and harmful algal blooms.

Information on Services Available: For information on translation services, access, or services for individuals with disabilities, please contact Tom Tracy at 919–541–4334 or *tracy.tom@epa.gov*. To request accommodation of a disability, please contact Tom Tracy at least ten days prior to the meeting to give the EPA adequate time to process your request.

Authority: Pub. L. 92–463, 1, Oct. 6, 1972, 86 Stat. 770.

Mary Ross,

Director, Office of Science Advisor, Policy and Engagement.

[FR Doc. 2021–23905 Filed 11–2–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Request for Applications To Fill a Vacancy on the National Shipper Advisory Committee

AGENCY: Federal Maritime Commission.

ACTION: Request for applications.

SUMMARY: The Federal Maritime Commission (''Commission'') is requesting applications from qualified candidates to be considered for appointment as a member of the National Shipper Advisory Committee (''Committee''). This recently established Committee will advise the Commission on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system.

DATES: Applications should be sent to the email address specified below and must be received on or before November 17, 2021.

ADDRESSES: All applications should be emailed to the Designated Federal Officer (DFO), Dylan Richmond, *nsac@fmc.gov.*

FOR FURTHER INFORMATION CONTACT: Dylan Richmond, Designated Federal Officer of the National Shipper Advisory Committee, phone: (202) 523–5810; email: *nsac@fmc.gov.* A copy of the Committee's charter can be obtained by accessing the Committee website at *www.fmc.gov.*

SUPPLEMENTARY INFORMATION: The National Shipper Advisory Committee is a federal advisory committee. It will operate under the provisions of the Federal Advisory Committee Act, 5 U.S.C. App., and 46 U.S.C. chapter 425. The Committee was established on January 1, 2021, when the National Defense Authorization Act for Fiscal Year 2021 became law. Public Law 116–283, section 8604, 134 Stat. 3388 (2021). The Committee will provide information, insight, and expertise pertaining to conditions in the ocean freight delivery system to the Commission. Specifically, the Committee will advise the Commission on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system. 46 U.S.C. 42502(b).

The Committee consists of twenty-four members, including a Chair and a Vice Chair, elected by the Committee from among the Committee's members. *Id.* 42502(c)(1), 42503(g). Twelve members represent entities who export cargo from the United States using ocean common carriers and twelve members represent entities who import cargo to the United States using ocean common carriers. *Id.* 42502(c)(3).

On June 7, 2021, the Commission solicited applications for inaugural members to the Committee. *See* 86 FR 31311 (June 11, 2021). The Commission received applications until June 30, 2021. *Id.* After considering these applications, the Commission announced the membership of the Committee on September 9, 2021. ''FMC Announces National Shipper Advisory Committee Membership,'' September 9, 2021, *https://www.fmc.gov/fmc-announces-national-shipper-advisory-committee-membership/.* The Commission balanced the membership of the Committee by considering factors such as commodities shipped, ports used, geographic areas served, and origins of cargo, as well as other relevant factors. After the Commission announced the list of Committee members, one member informed the Designated Federal Officer of a change in their employment. Because this change in their employment altered the balance of the Committee, the Commission excused that member from the Committee, resulting in a vacancy.

The Commission requests interested persons to submit applications to fill the vacancy on the Committee. The vacancy is for an individual that will represent an entity who imports cargo to the United States using ocean common carriers. The Commission intends to balance the membership of the Committee and will consider factors such as commodities shipped, ports used, geographic areas served, and origins of cargo, as well as other relevant factors. Appointments shall be made without discrimination on the basis of age, race, color, national origin, sex, disability, or religion.

Members are appointed by and serve at the pleasure of the Commission. *Id.* 42503(e)(2) and (3). The Commission may require an individual to pass an appropriate security background examination before appointment to the Committee. *Id.* 42503(e)(4). Under 46 U.S.C. 42503(e)(6)(a), membership terms expire on December 31 of the third full year after the effective date of the appointment. After a member's term expires, the member may continue to serve for up to one year until a successor is appointed. *Id.* 42503(e)(6)(B). Members' terms are renewable. *Id.* 42503(e)(8).

In accordance with 46 U.S.C. 42503(a), the Committee is required to hold meetings at least once a year, but it may meet at the call of the Commission or a majority of the Committee members. The Commission plans to host Committee meetings at Commission headquarters at 800 North Capitol Street Northwest, Washington, DC or virtually using video meeting technology. All members will serve at their own expense and receive no salary or other compensation from the Federal Government.

The following information must be included in the package of materials submitted for each individual applying for consideration:

(1) A statement that includes the name and affiliation of the applicant and a clear statement regarding the basis for the application, including the entity that the individual would represent, an explanation of how that entity is an importer of cargo to the United States using ocean common carriers, and a description of the individual's first-hand experience, knowledge, or expertise in matters relating to the international ocean freight delivery system;

(2) confirmation the applicant is willing to serve as a member of the Committee on a voluntary basis, without compensation or reimbursement;

(3) the applicant's contact information (please include address, daytime telephone number, and an email address); and

(4) a current copy of the applicant's curriculum vitae.

Applications may be submitted directly by the individual applying for consideration or by a person or

organization recommending the candidate for consideration.

Members who qualify as special Government employees (SGEs) shall demonstrate that they are in compliance with applicable ethics laws and regulations and comply with any requests or measures necessary to allow the Commission's Designated Agency Ethics Official to access and review financial disclosure reports and conduct a conflict-of-interest analysis. Except for members who qualify as SGEs, members appointed to represent the interests of a particular group or entity are not subject to Federal rules and requirements that would interfere with that representation. 46 U.S.C. 42503(d)(1). Non-SGE members may be required to comply with Federal rules and laws governing employee conduct that will not impact their ability to represent the interests they were appointed to serve.

By the Commission.

Rachel E. Dickon,

Secretary.

[FR Doc. 2021–23981 Filed 11–2–21; 8:45 am]

BILLING CODE 6731–02–P

GENERAL SERVICES ADMINISTRATION

[Notice–PCSCOTUS–2021–01; Docket No. PCSCOTUS–2021–0001; Sequence No. 5]

Office of Asset and Transportation Management; Presidential Commission on the Supreme Court of the United States; Notification of Upcoming Public Virtual Meeting and Request for Public Comment

AGENCY: Office of Government-wide Policy, General Services Administration (GSA).

ACTION: Request for public comment; meeting notice.

SUMMARY: GSA is accepting written public comments on the work of the Presidential Commission on the Supreme Court of the United States (Commission). Further, GSA is providing notice of an open public virtual meeting of the Commission in accordance with the requirements of the Federal Advisory Committee Act. The purpose of this meeting is for the Commissioners to vote on amended by-laws and deliberate on revised discussion materials that will inform the report the Commission is charged with preparing pursuant to Executive Order 14023. For more information on the meeting agenda, please see the **SUPPLEMENTARY INFORMATION** section of this notice. This meeting is open to the public and will be live-streamed at *www.whitehouse.gov/pcscotus/.* Materials relevant to the public meeting will be posted at *www.whitehouse.gov/pcscotus/* prior to the meeting.

DATES: The Commission will hold a public virtual meeting on November 19, 2021 from 1:00 p.m. to 5:00 p.m., Eastern Standard Time (EST).

ADDRESSES: This meeting will be conducted virtually on the internet. Interested individuals must register to attend as instructed below.

Procedures for Attendance and Public Comment

Attendance. This meeting is open to the public and the Commission encourages the public's attendance. To attend this public virtual meeting, please send an email with the Subject: Registration. In the body of the email, provide your full name, organization (if applicable), email address, and phone number to the Designated Federal Officer, at *info@pcscotus.gov.* Registration requests must be received by 5:00 p.m. EST, on November 17, 2021. Registrations received after this day/time may not be processed.

Public Comments. Written public comments are being accepted via *http://www.regulations.gov,* the Federal eRulemaking portal through December 15, 2021. No comments will be accepted after December 15, 2021.

To submit a written public comment, go to *http://www.regulations.gov* and search for PCSCOTUS–2021–0001. Then, click on the ''Comment'' button that shows up in the search results. Select the link ''Comment'' that corresponds with this notice. Follow the instructions provided on the screen. Please include your name, company name (if applicable), and ''PCSCOTUS–2021–0001, Notification of Upcoming Public Virtual Meeting and Request for Public Comment'' on your attached document (if applicable). Public comments meeting our public comment policy, included under **SUPPLEMENTARY INFORMATION**, will be shared on *Regulations.gov*. Comments provided by 5:00 p.m. EST, on November 14, 2021 will be provided to the Commission members in advance of the November 19 public meeting. Comments submitted after this date will still be provided to the Commission members, but please be advised that Commission members may not have adequate time to consider the comments prior to the meeting.

Special accommodations. For information on services for individuals with disabilities, or to request accommodation of a disability, please contact the Designated Federal Officer at least 10 business days prior to the meeting to give GSA as much time as possible to process the request.

FOR FURTHER INFORMATION CONTACT: For information on the public virtual meeting, contact Dana Fowler, Designated Federal Officer, Office of Government-wide Policy, General Services Administration, at *info@pcscotus.gov,* 202–501–1777.

SUPPLEMENTARY INFORMATION:

Background

The Administrator of GSA established the Commission under the Federal Advisory Committee Act on April 26, 2021 pursuant to *Executive Order 14023, Establishment of the Presidential Commission on the Supreme Court of the United States,* issued on April 9, 2021. Per the Executive Order, the Commission shall produce a report for the President that includes the following:

(i) An account of the contemporary commentary and debate about the role and operation of the Supreme Court in our constitutional system and about the functioning of the constitutional process by which the President nominates and, by and with the advice and consent of the Senate, appoints Justices to the Supreme Court;

(ii) The historical background of other periods in the Nation's history when the Supreme Court's role and the nominations and advice-and-consent process were subject to critical assessment and prompted proposals for reform; and

(iii) An analysis of the principal arguments in the contemporary public debate for and against Supreme Court reform, including an appraisal of the merits and legality of particular reform proposals.

Meeting Agenda

The purpose of this meeting is for the Commissioners to deliberate on revised discussion materials that will inform the report the Commission is charged with preparing pursuant to Executive Order 14023. The tentative agenda will include a vote on an amended by-laws. The remainder of the meeting will follow the structure of these materials as follows:

- Introduction: Setting the Stage and Chapter 1: The History of the Reform Debate
- *Chapter 2:* Membership and Size of the Court
- *Chapter 3:* Length of Service and Turnover of Justices on the Court
- *Chapter 4:* The Court's Role in the Constitutional System
- *Chapter 5:* Case Selection and Review: Docket, Rules, and Practices

Public Comment Policy

The Commission asks that written public comments be respectful and relevant to the work of the Commission. All comments are reviewed before they are shared with the Commission or posted online. Comments that include the following will not be shared on *Regulations.gov:*

- Vulgar, obscene, profane, threatening, or abusive language; personal attacks of any kind.
- Discriminatory language (including hate speech) based on race, national origin, age, gender, sexual orientation, religion, or disability.
- Endorsements of commercial products, services, organizations, or other entities.
- Repetitive posts (for example, if you submit the same material multiple times).
- Spam or undecipherable language (gratuitous links will be viewed as spam).
- Copyrighted material.
- Links to external sites.
- Images or videos.
- Solicitation of funds.
- Procurement-sensitive information.
- Surveys, polls, and questionnaires subject to the Office of Management and Budget Paperwork Reduction Act clearance.
- Personally Identifiable Information (PII) or Sensitive Information (SI).
- Off-topic posts.
- Media inquiries.

Thank you for your interest in the Presidential Commission on the Supreme Court of the United States. We look forward to hearing from you.

Krystal J. Brumfield,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2021–23944 Filed 11–2–21; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0324; Docket No. 2021–0001; Sequence No. 10]

Submission for OMB Review; General Services Administration Acquisition Regulation; Foreign Ownership and Financing Representation for High-Security Leased Space

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, GSA invites the public to comment on an extension concerning disclosure of foreign ownership information under high-security lease space acquisitions. OMB has approved this information collection for use through January 31, 2022. GSA proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: GSA will consider all comments received by December 3, 2021.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Carroll, 817–253–7858, General Services Acquisition Policy Division, by email at *gsarpolicy@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*) provides that an agency generally cannot conduct or sponsor a collection of information, and no person is required to respond to, nor be subject to, a penalty for failure to comply with a collection of information, unless that collection has obtained Office of Management and Budget (OMB) approval and displays a currently valid OMB Control Number.

Consistent with 5 CFR 1320.13, GSA requested and OMB authorized emergency processing of an information collection, as OMB Control Number 3090–0324, to identify the immediate or highest-level owner of high-security leased space, including any financing entity, and disclose whether that owner or financing entity is a foreign person or entity, including the country associated with the ownership or financing entity through GSAR 552.270–33. GSA has determined the following conditions have been met:

a. The collection of information is needed prior to the expiration of time periods normally associated with a routine submission for review under the provisions of the Paperwork Reduction Act, because the disclosure requirements of Section 3 of the Secure Federal LEASEs Act (Pub. L. 116–276) were effective on June 30, 2021.

b. The collection of information is essential to GSA's mission to ensure GSA complies with Section 3 in order to reduce security risks such as espionage and unauthorized cyber and physical access in high-security leased space.

c. GSA cannot comply with the normal clearance procedures because public harm is reasonably likely to result if current clearance procedures are followed.

This requirement supports implementation of Section 3 of the Secure Federal LEASEs Act (Pub. L. 116–276) for high-security leased space. This section requires offerors to identify the immediate or highest-level owner of the space, including any financing entity, and disclose whether that owner or financing entity is a foreign person or entity, including the country associated with the ownership entity. The offerors shall (1) provide such identification and disclosure when first submitting a proposal in response to a solicitation; and, if awarded the lease, (2) update such information annually.

This requirement is partially implemented in the Federal Acquisition Regulation (FAR) through the provisions at FAR 52.204–3, Taxpayer Identification, FAR 52.204–7, System for Award Management, FAR 52.204–17, Ownership and Control of Offeror, and clause at FAR 52.204–13, System for Award Management Maintenance. OMB Control Numbers 9000–0097 and 9000–0185 cover the FAR provisions and clause. However, the FAR does not account for foreign financing as required by the Act.

B. Annual Reporting Burden

This information collection applies to GSA lease procurements for high-security space. The annual public reporting burden for this collection of information through GSAR 552.270–33 is estimated based on the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

1. Initial Disclosure
Baseline Representation
Estimated annual responses: 542.
Estimated hours per response: 2.
Additional Representation
Estimated annual responses: 54.
Estimated hours per response: 10.
Total Initial Response Burden Hours: 1,624.

2. Annual Updates
Estimated annual responses: 542.
Estimated hours per response: 0.25.
Total Update Response Burden Hours: 136.

C. Public Comments

A 60-day notice published in the **Federal Register** at 86 FR 48143 on

August 27, 2021. No comments were received.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.*

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2021–23946 Filed 11–2–21; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Public Health Service Act; Delegation of Authority

Notice is hereby given that the Director, National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC), has delegated to the Deputy Director for Infectious Diseases (DDID); the Deputy Director, NCEZID; the Deputy Director for Management and Operations, NCEZID; and the Deputy Director, Division of Global Migration and Quarantine (DGMQ), NCEZID, without authority to redelegate, the authorities vested in the Director, CDC, under sections 361(a), (b), (c), and (d) and 362, Title III, of the Public Health Service Act (Control of Communicable Diseases) (42 U.S.C. 264 and 265 *et seq.*), as amended, to issue and sign quarantine, isolation and conditional release orders.

This delegation became effective on October 1, 2021.

Dated: October 26, 2021.

Sherri A. Berger,

Chief of Staff, CDC.

[FR Doc. 2021–23950 Filed 11–2–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program Board of Scientific Counselors; Announcement of Meeting; Request for Comments

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This notice announces the next meeting of the National Toxicology Program (NTP) Board of Scientific Counselors (BSC). The BSC, a federally chartered, external advisory group composed of scientists from the public and private sectors, will review and provide advice on programmatic activities. This meeting is a virtual meeting and is open to the public. Written comments will be accepted and registration is required to present oral comments.

DATES: Meeting: Scheduled for December 8, 2021, 12:30 p.m.–5:00 p.m. Eastern Standard Time (EST). Written Public Comment Submissions: Deadline is December 1, 2021. Registration for Oral Comments: Deadline is December 1, 2021.

ADDRESSES:

Meeting Web Page: The preliminary agenda, registration, and other meeting materials are available at *https://ntp.niehs.nih.gov/go/165.*

Virtual Meeting: The URL for viewing the virtual meeting will be provided on the meeting web page the day before the meeting.

FOR FURTHER INFORMATION CONTACT: Dr. Mary Wolfe, Designated Federal Official for the BSC, Office of Policy, Review, and Outreach, Division of NTP, NIEHS, P.O. Box 12233, K2–03, Research Triangle Park, NC 27709. Phone: 984–287–3209, Fax: 301–451–5759, Email: *wolfe@niehs.nih.gov.* Hand Deliver/Courier address: 530 Davis Drive, Room K2130, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION: The BSC will provide input to the NTP on programmatic activities and issues. The preliminary agenda topics include presentations on the State of the Division of the National Toxicology Program (DNTP) and DNTP's strategic portfolio. The preliminary agenda, roster of BSC members, background materials, public comments, and any additional information, when available, will be posted on the BSC meeting web page (*https://ntp.niehs.nih.gov/go/165*) or may be requested in hardcopy from the Designated Federal Official for the BSC. Following the meeting, summary minutes will be prepared and made available on the BSC meeting web page.

Meeting Attendance Registration: The meeting is open to the public with time scheduled for oral public comments. Registration is not required to view the virtual meeting; the URL for the virtual meeting is provided on the BSC meeting web page (*https://ntp.niehs.nih.gov/go/165*) the day before the meeting. TTY users should contact the Federal TTY Relay Service at 800–877–8339. Requests should be made at least five business days in advance of the event.

Written Public Comments: NTP invites written public comments. Guidelines for public comments are available at *https://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf.*

The deadline for submission of written comments is December 1, 2021. Written public comments should be submitted through the meeting web page. Persons submitting written comments should include name, affiliation, mailing address, phone, email, and sponsoring organization (if any). Written comments received in response to this notice will be posted on the NTP web page, and the submitter will be identified by name, affiliation, and sponsoring organization (if any).

Oral Public Comment Registration: The agenda allows for one formal public comment period on the agenda topics (up to 3 commenters total, up to 5 minutes per speaker per topic). Persons wishing to make an oral comment are required to register online at *https://ntp.niehs.nih.gov/go/165* by December 1, 2021. Oral comments will be received only during the formal comment period indicated on the preliminary agenda. Oral comments will only be by teleconference line. The access number for the teleconference line will be provided to registrants by email prior to the meeting. Registration is on a first-come, first-served basis. Each organization is allowed one time slot per topic. After the maximum number of speakers is exceeded, individuals registered to provide oral comment will be placed on a wait list and notified should an opening become available. Commenters will be notified approximately one week before the meeting about the actual time allotted per speaker.

If possible, oral public commenters should send a copy of their slides and/or statement or talking points to *NTP-Meetings@icf.com* by December 1, 2021.

Meeting Materials: The preliminary meeting agenda is available on the meeting web page (*https://ntp.niehs.nih.gov/go/165*) and will be updated one week before the meeting. Individuals are encouraged to access the meeting web page to stay abreast of the most current information regarding the meeting.

Background Information on the BSC: The BSC is a technical advisory body comprised of scientists from the public and private sectors that provides primary scientific oversight to the NTP. Specifically, the BSC advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purpose of determining and advising on the scientific merit of its activities and

their overall scientific quality. Its members are selected from recognized authorities knowledgeable in fields such as toxicology, pharmacology, pathology, epidemiology, risk assessment, carcinogenesis, mutagenesis, cellular biology, computational toxicology, neurotoxicology, genetic toxicology, reproductive toxicology or teratology, and biostatistics. Members serve overlapping terms of up to four years. The BSC usually meets periodically. The authority for the BSC is provided by 42 U.S.C. 217a, section 222 of the Public Health Service Act (PHS), as amended.

The BSC is governed by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. app.), which sets forth standards for the formation and use of advisory committees.

Dated: October 21, 2021.

Brian R. Berridge,

Associate Director, National Toxicology Program.

[FR Doc. 2021–23916 Filed 11–2–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Drug Abuse Special Emphasis Panel, November 30, 2021, 09:00 a.m. to December 01, 2021, 06:00 p.m., National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 which was published in the **Federal Register** on September 29, 2021, FR Doc 2021–21130, 86 FR 53969.

This notice is being amended to only change the Contact Person from Yvonne Ferguson, Ph.D. to Preethy Nayar, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 443–4577, *nayarp2@csr.nih.gov.* The meeting is closed to the public.

Dated: October 29, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–23991 Filed 11–2–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Bureau Veritas Commodities and Trade, Inc. (Savannah, GA) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Bureau Veritas Commodities and Trade, Inc. (Savannah, GA) as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Bureau Veritas Commodities and Trade, Inc. (Savannah, GA), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of February 25, 2020.

DATES: Bureau Veritas Commodities and Trade, Inc. (Savannah, GA) was approved and accredited as a commercial gauger and laboratory as of February 25. 2020. The next triennial inspection date will be scheduled for February 2023.

FOR FURTHER INFORMATION CONTACT: Mrs. Allison Blair, Laboratories and Scientific Services, U.S. Customs and Border Protection, 4150 Interwood South Parkway, Houston, TX 77032, tel. 281–560–2900.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Bureau Veritas Commodities and Trade, Inc., 151 East Lathrop Avenue, Savannah, GA 31415, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Bureau Veritas Commodities and Trade, Inc. (Savannah, GA) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculation of Petroleum Quantities.
17	Marine Measurement.

Bureau Veritas Commodities and Trade, Inc. (Savannah, GA) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–03	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D95	Standard test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–06	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectrometry.
27–48	D4052	Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter.
27–54	D1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method (Laboratory Procedure).
27–58	D5191	Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (281) 560–2900. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please

reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: October 6, 2021.

James D. Sweet,

Laboratory Director, Southwest Regional Science Center, Laboratories and Scientific Services Directorate.

[FR Doc. 2021–23941 Filed 11–2–21; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc. (Deer Park, TX) as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc. (Deer Park, TX), as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc. (Deer Park, TX), has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of October 04, 2019.

DATES: SGS North America, Inc. (Deer Park, TX) was approved as a commercial gauger as of October 04, 2019. The next triennial inspection date will be scheduled for October 2022.

FOR FURTHER INFORMATION CONTACT: Mrs. Allison Blair, Laboratories and Scientific Services, U.S. Customs and Border Protection, 4150 Interwood South Parkway, Houston, TX 77032, tel. 281–560–2924.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that SGS North America Inc., 900B Georgia Avenue, Deer Park, TX 77536, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13.

SGS North America, Inc. (Deer Park, TX) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurement.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: October 4, 2021.

James D. Sweet,

Laboratory Director, Southwest Regional Science Center, Laboratories and Scientific Services.

[FR Doc. 2021–23939 Filed 11–2–21; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0016]

Meetings To Implement Pandemic Response Voluntary Agreement Under Section 708 of the Defense Production Act

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Announcement of meetings.

SUMMARY: The Federal Emergency Management Agency (FEMA) is holding two meetings to implement the Voluntary Agreement for the Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic.

DATES: The first meeting will take place on Tuesday, November 16, 2021, from 10:00 a.m. to 12:00 p.m. Eastern Time (ET). The second meeting will take place on Thursday, November 18, 2021, from 10:00 a.m. to 12:00 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Robert Glenn, Office of Business, Industry, Infrastructure Integration, via email at *OB3I@fema.dhs.gov* or via phone at (202) 212–1666.

SUPPLEMENTARY INFORMATION: Notice of these meetings is provided as required by section 708(h)(8) of the Defense Production Act (DPA), 50 U.S.C. 4558(h)(8), and consistent with 44 CFR part 332.

The DPA authorizes the making of ''voluntary agreements and plans of action'' with representatives of industry, business, and other interests to help provide for the national defense.[1] The President's authority to facilitate voluntary agreements with respect to responding to the spread of COVID–19 within the United States was delegated to the Secretary of Homeland Security in Executive Order 13911.[2] The Secretary of Homeland Security further delegated this authority to the FEMA Administrator.[3]

On August 17, 2020, after the appropriate consultations with the Attorney General and the Chairman of the Federal Trade Commission, FEMA completed and published in the **Federal Register** a ''Voluntary Agreement, Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic'' (Voluntary Agreement).[4] Unless terminated earlier, the Voluntary Agreement is effective until August 17, 2025, and may be extended subject to additional approval by the Attorney General after consultation with the Chairman of the Federal Trade Commission. The Agreement may be used to prepare for or respond to any pandemic, including COVID–19, during that time.

On December 7, 2020, the first plan of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Personal Protective Equipment (PPE) to Respond to COVID–19 (PPE Plan of Action)—was finalized.[5] The PPE Plan of Action established several sub-committees under the

[1] 50 U.S.C. 4558(c)(1).

[2] 85 FR 18403 (Apr. 1, 2020).

[3] DHS Delegation 09052, Rev. 00.1 (Apr. 1, 2020); DHS Delegation Number 09052 Rev. 00 (Jan. 3, 2017).

[4] 85 FR 50035 (Aug. 17, 2020). The Attorney General, in consultation with the Chairman of the Federal Trade Commission, made the required finding that the purpose of the voluntary agreement may not reasonably be achieved through an agreement having less anticompetitive effects or without any voluntary agreement and published the finding in the **Federal Register** on the same day. 85 FR 50049 (Aug. 17, 2020).

[5] *See* 85 FR 78869 (Dec. 7, 2020). *See also* 85 FR 79020 (Dec. 8, 2020).

Voluntary Agreement, focusing on different aspects of the PPE Plan of Action.

On May 24, 2021, four additional plans of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Diagnostic Test Kits and other Testing Components to respond to COVID–19, the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Drug Products, Drug Substances, and Associated Medical Devices to respond to COVID–19, the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Medical Devices to respond to COVID–19, and the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Medical Gases to respond to COVID–19—were finalized.[6] These plans of action established several sub-committees under the Voluntary Agreement, focusing on different aspects of each plan of action.

On October 15, 2021, the sixth plan of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Coordination of National Multimodal Healthcare Supply Chains to Respond to COVID–19—was finalized.[7] This plan of action established several sub-committees under the Voluntary Agreement, focusing on different transportation categories.

The meetings are chaired by the FEMA Administrator's delegates from the Office of Response and Recovery (ORR) and Office of Policy and Program Analysis (OPPA), attended by the Attorney General's delegates from the U.S. Department of Justice, and attended by the Chairman of the Federal Trade Commission's delegates. In implementing the Voluntary Agreement, FEMA adheres to all procedural requirements of 50 U.S.C. 4558 and 44 CFR part 332.

Meeting Objectives: The objectives of the meetings are as follows:

1. Convene the Sub-Committee to Define Requirements under the National Multimodal Healthcare Supply Chains Plan of Action to establish priorities related to the COVID–19 response under the Voluntary Agreement.

2. Gather Sub-Committee Participants and Attendees to ask targeted questions for situational awareness.

3. Identify pandemic-related supply chain issues, information gaps, and areas for potential additional discussion.

4. Identify potential Objectives and Actions which correspond to Sub-Committees. These will be held for further discussion under those Sub-Committees.

Meetings Closed to the Public: By default, the DPA requires meetings held to implement a voluntary agreement or plan of action be open to the public.[8] However, attendance may be limited if the Sponsor [9] of the voluntary agreement finds that the matter to be discussed at a meeting falls within the purview of matters described in 5 U.S.C. 552b(c), such as trade secrets and commercial or financial information.

The Sponsor of the Voluntary Agreement, the FEMA Administrator, found that these meetings to implement the Voluntary Agreement involve matters which fall within the purview of matters described in 5 U.S.C. 552b(c) and the meetings are therefore closed to the public.

Specifically, these meetings may require participants to disclose trade secrets or commercial or financial information that is privileged or confidential. Disclosure of such information allows for meetings to be closed to the public pursuant to 5 U.S.C. 552b(c)(4).

The success of the Voluntary Agreement depends wholly on the willing participation of the private sector participants. Failure to close these meetings to the public could reduce active participation by the signatories due to a perceived risk that sensitive company information could be prematurely released to the public. A premature public disclosure of a private sector participant's information could reduce trust and support for the Voluntary Agreement.

A resulting loss of support by the participants for the Voluntary Agreement would significantly frustrate the implementation of the Agency's objectives. Thus, these meeting closures are permitted pursuant to 5 U.S.C. 552b(c)(9)(B).

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–23974 Filed 11–2–21; 8:45 am]

BILLING CODE 9111–19–P

[6] *See* 86 FR 27894 (May 24, 2021). *See also* 86 FR 28851 (May 28, 2021).

[7] *See* 86 FR 57444 (Oct. 15, 2021).

[8] *See* 50 U.S.C. 4558(h)(7).

[9] ''[T]he individual designated by the President in subsection (c)(2) [of section 708 of the DPA] to administer the voluntary agreement, or plan of action.'' 50 U.S.C. 4558(h)(7).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–64]

30-Day Notice of Proposed Information Collection: Delegated Processing for Certain Capital Advance Projects; OMB Control No: 2502–0590

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* December 3, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/StartPrintedPage15501PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 9, 2020, at 85 FR 19951.

A. Overview of Information Collection

Title of Information Collection: Delegated Processing for Certain Capital Advance Projects.

OMB Approval Number: 2502–0590.

OMB Expiration Date: 09/30/2016.

Type of Request: Reinstatement, with change, of previously approved

collection for which approval has expired.

Form Number: HUD–90000, HUD–90001, HUD–90002.

Description of the Need for the Information and Proposed Use: This collection was discontinued in 2016 due to no funding being appropriated since 2011 for Section 202 and 811 capital advances or new Project Rental Assistance Contracts. Both Section 202 and 811 programs received new funding in 2018, therefore the collection is now being reinstated. The Delegated Processing Agreement establishes the relationship between the Department and a Delegated Processing Agency (DPA) and details the duties and compensation of the DPA. The Certifications form provides the Department with assurances that the review of the application was in accordance with HUD requirements. The Schedule of Projects form provides the DPA with information necessary to determine if they wish to process the project and upon signature commits them to such processing. Staff of the Office of Housing Assistance and Grant Administration, Multifamily Housing Office will use the information to determine if a housing finance agency wishes to participate in the program and obtain certifications that the review of the application was in accord with HUD requirements.

Respondents: State or Local Housing Agencies.

Estimated Number of Respondents: 50.

Estimated Number of Responses: 50.

Frequency of Response: Once a year.

Average Hours per Response: 1.4.

Total Estimated Burden: 70.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–23987 Filed 11–2–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–61]

30-Day Notice of Proposed Information Collection: Closeout Instructions for Community Development Block Grant Programs (CDBG); OMB Control No: 2506–0193

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* December 3, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 29, 2021 at 86 FR 40867.

A. Overview of Information Collection

Title of Information Collection: Closeout Instructions for Community Development Block Grant Programs (CDBG).

OMB Approval Number: 2506–0193.

Type of Request: Reinstatement with change of a previously approved collection.

Form Number: 7082.

Description of the Need for the Information and Proposed Use: This information collection is being conducted by HUD's Community Planning and Development Office of Block Grant Assistance (CPDOBGA) to assist HUD in determining, as required by Section 104(e) of the Housing and Community Development Act of 1974 (HCDA), and outlined in Subpart I (for States) and Subpart J (for entitlements) of the CDBG regulation, whether Grantees, (Entitlement communities, States and units of general local governments) have carried out eligible activities and its certifications in accordance with the statutory and regulatory requirements governing State CDBG, CDBG–R, Disaster Recovery, Neighborhood Stabilization Program (NSP) 1, NSP2 and NSP 3 grants prior to closing the grant allocation. The submission of the HUD *7082—Funding Approval Form* is necessary as the form is the Grant Agreement between the Department of Housing and Urban Development (HUD) and the Grantee and is made pursuant to the authority of the HCDA, as amended, (42 U.S.C. 5301 *et seq.*). HUD will make the funding assistance as specified to the grantee upon execution of the Agreement. We request the paperwork approval because the funding approval form is a vehicle for standardizing the agreements between HUD and each of its grantees.

GRANT CLOSEOUT FORM

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
States Total	182.00	1.00	182.00	3.00	546.00	$41.78	$22,811.88
Counties in Hawaii Total	3.00	1.00	3.00	3.00	9.00	41.78	376.02
Entitlement Total	1,490.00	1.00	1,490.00	3.00	4,470.00	41.78	186,756.60
Non-entitlement Total	32.00	1.00	32.00	3.00	96.00	41.78	4,010.88
Non-Profits and Quasi-public Total	20.00	1.00	20.00	3.00	60.00	41.78	2,506.80
Funding Approval Total	1,727.00	1.00	1,727.00	3.00	5,181.00	41.78	216,462.18

FUNDING APPROVAL/AGREEMENT 7082 FORM

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
State Total	132.00	1.00	132.00	0.25	33.00	$41.78	$1,378.74
Counties in Hawaii Total	3.00	1.00	3.00	0.25	0.75	41.78	31.33
Entitlement Total	1,399.00	1.00	1,399.00	0.25	349.75	41.78	14,612.55
Nonentitlement Total	32.00	1.00	32.00	0.25	8.00	41.78	334.24
Nonentitlement Direct Grantees Total	32.00	1.00	32.00	0.25	8.00	41.78	334.24
Funding Approval Total	1,598.00	1.00	1,598.00	0.25	399.50	41.78	16,691.11

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–23984 Filed 11–2–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–62]

30-Day Notice of Proposed Information Collection: Data Collection and Reporting for HUD's Homeless Assistance Programs—Annual Performance Report and System Performance Report; OMB Control No: 2506–0145

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* December 3, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 21, 2021 at 86 FR 38499.

A. Overview of Information Collection

Title of Information Collection: Data Collection and Reporting for HUD's Homeless Assistance Programs—Annual Performance Report and System Performance Report

OMB Approval Number: 2506–0145.

Type of Request: Reinstatement.

Form Number: None.

Description of the Need for the Information and Proposed Use: This request is for clearance of data collection and reporting to enable the U.S. Department of Housing and Urban Development (HUD) Office of Community Planning and Development (CPD) to continue to manage and assess the effectiveness of its homeless assistance projects on an annual basis. Per 24 CFR 578.103(e), HUD requires recipients and subrecipients that receive funding through the CoC Program (authorized by the McKinney-Vento Homeless Assistance Act, as amended

by the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act) to prepare and submit annual project-level reports on performance and spending.

This request will also enable the HUD CPD Office to initiate a process to assess the effectiveness of local coordinated systems of homeless assistance. The McKinney-Vento Homeless Assistance Act, as amended, now requires communities to measure their performance as a coordinated system, in addition to analyzing performance by specific projects or project types. Section 427 of the Act established a set of selection criteria for HUD to use in awarding CoC Program funding. These selection criteria require CoCs to report to HUD their system-level performance. The intent of these selection criteria are to encourage CoCs, in coordination with Emergency Solutions Grant (ESG) Program recipients and all other homeless assistance stakeholders in the community, to regularly measure their progress in meeting the needs of people experiencing homelessness in their community and to report this progress to HUD. This request is for HUD to collect system-level performance measure data from CoCs on an annual basis, as described in Appendix B of this document.

The project APR and system-level performance measures both rely on a primary data source in each CoC—a local Homeless Management Information System (HMIS). An HMIS is an electronic data collection system that stores person-level information about homeless persons who access a community's homeless service system. Over the past decade, HUD has supported the development of local HMIS by funding their development and implementation, by providing technical assistance, and by developing national data standards that enable the collection of standardized information on the characteristics, service patterns and service needs of homeless persons within a jurisdiction and across jurisdictions. These standards are described in HUD's HMIS Data Standards.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Annual Performance Report (CoC Program)—Non-profit Recipients	4,000.00	1	4,000.00	4.00	16,000.00	$44.57	$713,120.00
Annual Performance Report (YHDP)—Non-profit Recipients	200.00	5	1,000.00	5.00	5,000.00	44.57	222,850.00
Performance Report (Special CoC NOFA Grants)—Non-profit Recipients	25.00	5	125.00	4.00	500.00	44.57	22,285.00
Annual Performance Report (CoC Program)—State and Local Recipients	4,000.00	1	4,000.00	4.00	16,000.00	44.57	713,120.00
Annual Performance Report (YHDP)—State and Local Recipients	200.00	5	1,000.00	5.00	5,000.00	44.57	222,850.00
Performance Report (Special CoC NOFA Grants)—State and Local Recipients	25.00	5	125.00	4.00	500.00	44.57	22,285.00
Total	8,450.00		10,250.00		43,000.00		1,916,510.00

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Group 1: CoCs with Automated Software Report	385.00	1	385.00	13.00	5,005.00	$44.57	$223,072.85
Group 2: CoCs with Manual Software Report	15.00	1	15.00	15.00	225.00	44.57	10,028.25
Total	400.00		400.00		5,230.00		233,101.10

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
CoCs	400.00	4	1,600.00	1.00	1,600.00	$40.53	$64,848.00
HMIS Lead Agency	400.00	1	400.00	1.00	400.00	40.53	16,212.00
Project Recipients	600.00	1	600.00	0.50	600.00	40.53	12,159.00
Total	1,400.00		2,600.00		2,300.00		93,219.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–23983 Filed 11–2–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2021–0114; FXES11130200000–212–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Draft Recovery Plan for the Diamond Y Invertebrates

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of our draft recovery plan for the Diamond Y invertebrates, including Diamond tryonia (*Pseudotryonia adamantina*), Gonzales tryonia (*Tryonia circumstriata*), and Pecos amphipod (*Gammarus pecos*). These endangered aquatic invertebrates occur in the Diamond Y Spring system of the Chihuahuan Desert of western Texas. We request review and comment on this draft recovery plan from local, State, and Federal agencies; nongovernmental organizations; and the public.

DATES: We must receive any comments on or before January 3, 2022. Comments submitted online at *http://www.regulations.gov* (see **ADDRESSES**) must be received by 11:59 p.m. Eastern Time on January 3, 2022.

ADDRESSES: *Obtaining Documents:* You may obtain a copy of the draft recovery plan, recovery implementation strategy, and species status assessment for review at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2021–0114.

Submitting Comments: Submit your comments in writing by one of the following methods:

- *Internet: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–R2–ES–2021–0114.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R2–ES–2021–0114, U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

For additional information about submitting comments, see Request for Public Comments and Public Availability of Comments under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, by phone at 512–490–0057, or by email at *adam_zerrenner@fws.gov.* Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (USFWS), announce the availability of our draft recovery plan for the Diamond Y invertebrates, including Diamond tryonia (*Pseudotryonia adamantina*), Gonzales tryonia (*Tryonia circumstriata*), and Pecos amphipod (*Gammarus pecos*), which we listed as endangered in 2013 (see 78 FR 41228; July 9, 2013) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). These aquatic invertebrates are restricted to the small, isolated Diamond Y Spring system and ciénega (desert wetland) in the Chihuahuan Desert of Pecos County, Texas. The draft recovery plan includes specific goals, objectives, and criteria that may help to inform our consideration of whether to reclassify the species as threatened (*i.e.,* ''downlist'') or remove the species from the Federal List of Endangered and Threatened Wildlife (*i.e.,* ''delist''). We request review of and comment on the draft recovery plan from local, State, and Federal agencies; nongovernmental organizations; and the public.

Recovery Planning and Implementation

Section 4(f) of the ESA requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Also pursuant to section 4(f) of the ESA, a recovery plan must, to the maximum extent practicable, include:

(1) A description of site-specific management actions as may be necessary to achieve the plan's goals for the conservation and survival of the species;

(2) Objective, measurable criteria that, when met, would support a determination under the ESA's section 4(a)(1) that the species should be delisted; and

(3) Estimates of the time and costs required to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

In 2016, the USFWS revised its approach to recovery planning, and is now using a process termed recovery planning and implementation (RPI) (see *https://www.fws.gov/endangered/esa-library/pdf/RPI.pdf*). The RPI approach is intended to reduce the time needed to develop and implement recovery plans, increase recovery plan relevance over a longer timeframe, and add flexibility to recovery plans so they can be adjusted to new information or circumstances. Under RPI, a recovery plan addresses the statutorily required elements under section 4(f) of the ESA, including site-specific management actions, objective and measurable recovery criteria, and the estimated time and cost to recovery. The RPI recovery plan is supported by two supplementary documents: A species status assessment (SSA), which describes the best available scientific information related to the biological needs of the species and assessment of threats; and a recovery implementation strategy, which details the particular near-term activities needed to implement the recovery actions identified in the recovery plan. Under this approach, we can more nimbly incorporate new information on species biology or details of recovery implementation by updating these supplementary documents without concurrent revision of the entire recovery plan, unless changes to statutorily required elements are necessary.

Species Background

On July 9, 2013, we published a final rule (78 FR 41228) to list the Diamond tryonia, Gonzales tryonia, and Pecos amphipod as endangered species. Also on July 9, 2013, we published a final rule (78 FR 40970) designating critical habitat for the three species. A single critical habitat unit, encompassing 178.6 hectares (441.4 acres), is designated as critical habitat for these species at the Diamond Y Spring system.

These species are only known to inhabit the Diamond Y Spring system, a small complex of isolated desert springs, seeps, and associated ciénegas (desert wetlands), in the Chihuahuan Basin and Playas ecoregion of western Texas. The spring system is located approximately 12 kilometers (8 miles) north of the City of Fort Stockton in Pecos County. The Nature Conservancy owns and manages the Diamond Y Spring Preserve, which encompasses the spring and ciénega system.

The primary ongoing threats to the Diamond Y invertebrates include habitat loss and degradation as a result of decreasing groundwater quantity and quality and habitat modification; predation; the inadequacy of existing regulatory mechanisms; competition; and climate change.

Recovery Criteria

The draft recovery criteria are summarized below. For a complete description of the rationale behind the criteria, the recovery strategy, management actions, and estimated time and costs associated with recovery, refer to the draft recovery plan for the Diamond Y invertebrates (see **ADDRESSES**, above, for document availability).

The ultimate recovery goal is to delist the Diamond Y invertebrates by ensuring the long-term viability of these species in the wild. In the recovery plan, we define the following criteria for delisting (*i.e.,* removal of the species from the List of Endangered and Threatened Wildlife):

- *Criterion 1:* Maintain the presence of each species in the occupied management unit as of the start of this plan, with a stable or increasing average trend in density over a period of 20 consecutive years.
- *Criterion 2:* Develop, implement, and fulfill a water management plan or equivalent conservation agreement, supported by the local irrigation district and other partners, that ensures adequate surface and groundwater levels to (a) sustain delisting criteria measured by Criterion 1, above, and (b) ensure that the flows in the Diamond Y Spring system are stable and perennial.
- *Criterion 3:* Commitments (*e.g.,* conservation agreements) are in place to maintain sufficient water quality protections and will be implemented in perpetuity. These commitments should specifically address the Diamond Y invertebrates and reduce the risk of a catastrophic spill occurring within a drainage or recharge area occupied by any of the three invertebrate species.

Request for Public Comments

Section 4(f) of the ESA requires us to provide public notice and an opportunity for public review and comment during recovery plan development. It is also our policy to request peer review of recovery plans (59 FR 34270; July 1, 1994). In an appendix to the approved final recovery plan, we will summarize and respond to the issues raised during public comment and peer review. Substantive comments may or may not result in changes to the recovery plan. Comments regarding recovery plan implementation will be forwarded as appropriate to Federal or other entities so that they can be taken into account during the course of implementation of recovery actions.

We invite written comments on this draft recovery plan. In particular, we are interested in additional information regarding the current threats to the species, ongoing beneficial management efforts, and the costs associated with implementing the recommended recovery actions. The species status assessment is available as a supporting document for the draft recovery plan, but we are not seeking comments on the status assessment. We will consider all comments we receive by the date specified in **DATES**, above, prior to final approval of the plan.

Public Availability of Comments

All comments we receive, including names and addresses, will become part of the administrative record and will be available to the public. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—will be publicly available. While you may request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We developed our draft recovery plan and publish this notice under the authority of section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Amy L. Lueders,

Regional Director, Interior Region 6, U.S. Fish and Wildlife Service.

[FR Doc. 2021–23977 Filed 11–2–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2021–N190; FXES11140400000–201–FF04E00000]

Endangered Species; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits, permit renewals, and/or permit amendments to conduct activities intended to enhance the propagation or survival of endangered species under the Endangered Species Act of 1973, as amended. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive written data or comments on the applications by December 3, 2021.

ADDRESSES: *Reviewing Documents:* Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Submit a request for a copy of such documents to Karen Marlowe (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Comments: If you wish to comment, you may submit comments by one of the following methods:

- *U.S. mail:* U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).
- *Email: permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Karen Marlowe, Permit Coordinator, 404–679–7097 (telephone), *karen_marlowe@fws.gov* (email), or 404–679–7081 (fax). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We invite review and comment from the public and local, State, Tribal, and Federal agencies on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes such take. The ESA's definition of ''take'' includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to take endangered or threatened species while engaging in activities that are conducted for scientific purposes that promote recovery of species or for enhancement of propagation or survival of species. These activities often include the capture and collection of species, which would result in prohibited take were a permit not issued. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 25612A–2	Stephen Samoray, Nashville, TN.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*),Ozark big-eared bat (*Corynorhinus* (=*Plecotus*) *townsendii ingens*), and Virginia big-eared bat (*Corynorhinus* (=*Plecotus*) *townsendii virginianus*).	Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys, studies to document habitat use, and population monitoring.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, light-tag, swab, wing-punch, and collect hair samples.	Renewal.
TE 06337C–1	Zachary Loughman, West Liberty University, West Liberty, WV.	Big Sandy crayfish (*Cambarus callainus*), Guyandotte River crayfish (*Cambarus veteranus*).	Kentucky, Virginia, West Virginia.	Development of genetic management plan and study of movements in response to anthropogenic structures and activities.	Collect gill samples and radio-tag.	Amendment.
TE 834070–4	Point Defiance Zoo and Aquarium, Tacoma, WA.	Red wolf (*Canis rufus*) ..	Washington	Study genetic predisposition to hyperthermia.	Collect tissues from deceased individuals.	Amendment.
TE 114069–4	Fairchild Tropical Botanic Garden, Coral Gables, FL.	Florida semaphore cactus (*Consolea corallicola*).	Biscayne National Park, Florida.	Artificial propagation and research.	Collect seeds and cuttings.	Amendment.
TE 079972–4	Eric Baka, Louisiana Department of Wildlife and Fisheries, Pineville, LA.	Red-cockaded woodpecker (*Picoides borealis*).	Arkansas, Louisiana, Oklahoma, and Texas.	Population management and monitoring.	Capture, band, monitor nest cavities, construct and monitor artificial nest cavities and restrictors, and translocate.	Renewal.
TE 86220A–3	Jaret Daniels, Florida Museum of Natural History, Gainesville, FL.	Miami blue butterfly (*Cyclargus* (=*Hemiargus*) *thomasi bethunebakeri*), Schaus swallowtail butterfly (*Heraclides aristodemus ponceanus*).	Florida	Propagation for research and reintroduction.	Capture with hand-nets, mark, collect eggs and larvae, take wing fragments, and release.	Renewal/ Amendment.
PER 0012943 ...	Texas A&M Natural Resources Institute, San Antonio, TX.	Silver rice rat (*Oryzomys palustris natator*).	Naval Air Station Key West, Florida.	Population status survey	Capture and release	New.
PER 0013650 ...	Bureau of Land Management–Jupiter Inlet Lighthouse ONA, Jupiter, FL.	Florida perforate cladonia (*Cladonia perforata*).	Jupiter Inlet Lighthouse Outstanding Natural Area, Palm Beach County, Florida.	Genetic research	Collect thalli	New.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 091705–4	North Carolina Botanical Garden, Chapel Hill, NC.	*Aeschynomene virginica, Amaranthus pumilus, Arabis serotina, Betula uber, Carex lutea, Echinacea laevigata, Geum radiatum, Gymnoderma lineare, Hedyotis purpurea* var. *montana, Helianthus schweinitzii, Helonias bullata, Hexastylis naniflora, Hudsonia montana, Liatris helleri, Lysimachia asperulifolia, Oxypolis canbyi, Pityopsis ruthii, Ptilimnium nodosum, Rhus michauxii, Sagittaria fasciculata, Sagittaria secundifolia, Sarracenia jonesii, Sarracenia oreophila, Schwalbea americana, Scutellaria montana, Sisyrinchium dichotomum, Solidago spithamaea, Spiraea virginiana, Thalictrum cooleyi,* and *Trifolium stoloniferum.*	Federal lands in Alabama, Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia.	Ex situ seed banking, artificial propagation, conservation research, educational display, and genetic analyses.	Collection of seeds, sporocarps, and cuttings.	Renewal.
PER 0013669 ...	Alyssa Jones, Huntington, WV.	Mussels: Clubshell (*Pleurobema clava*), cracking pearlymussel (*Hemistena lata*), Cumberland combshell (*Epioblasma brevidens*), dromedary pearlymussel (*Dromas dromas*), fanshell (*Cyprogenia stegaria*), fat pocketbook (*Potamilus capax*), James spinymussel (*Pleurobema collina*), northern riffleshell (*Epioblasma rangiana*), oyster mussel (*Epioblasma capsaeformis*), pink mucket (*Lampsilis abrupta*), rabbitsfoot (*Quadrula cylindrica cylindrica*), rayed bean (*Villosa fabalis*), ring pink (*Obovaria retusa*), rough pigtoe (*Pleurobema plenum*), sheepnose (*Plethobasus cyphyus*), snuffbox (*Epioblasma triquetra*), and spectaclecase (*Cumberlandia monodonta*); rusty patched bumble bee (*Bombus affinis*); and Roanoke logperch (*Percina rex*).	Mussels: Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin; Rusty patch bumble bee: Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin; Roanoke logperch: North Carolina and Virginia.	Presence/absence surveys.	Capture, handle, and release.	New.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 83013B–1	Kathleen McDaniel, Syracuse, NY.	Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*).	Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys, population monitoring, and studies to document habitat use.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, and collect hair samples.	Renewal.
TE 02166C–2	Zoe Bryant, Medford, NJ	Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and gray bat (*Myotis grisescens*).	Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys.	Capture with mist nets or harp traps, handle, identify, band, and radio-tag.	Renewal.
TE 007748–6	USDA Forest Service, Kisatchie National Forest, Pineville, LA.	Red-cockaded woodpecker (*Picoides borealis*), Louisiana pinesnake (*Pituophis ruthveni*), and Louisiana pearlshell (*Margaritifera hembeli*).	Red-cockaded woodpecker: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; Louisiana pinesnake: Louisiana and Texas; Louisiana pearlshell: Louisiana.	Population management and monitoring; presence/absence surveys; captive propagation and reintroduction; disease surveillance; research on range, habitat, behavior, and management requirements; and genetic analyses.	Red-cockaded woodpecker: Capture, band, monitor nest cavities, construct and monitor artificial nest cavities and restrictors, translocate, and recapture; Louisiana pine snake: Capture, handle, measure, weigh, sex via cloacal probe or everting hemipenes, PIT-tag, scale-clip, cauterize, swab, gastric wash, and hold temporarily in captivity to collect samples (blood, fecal, and shed skin); Louisiana pearlshell: Capture, handle, and release.	Renewal/ Amendment.
TE 136808–4	Loggerhead Marinelife Center, Juno Beach, FL.	Olive ridley sea turtle (*Lepidochelys olivacea*), green sea turtle (*Chelonia mydas*), hawksbill sea turtle (*Eretmochelys imbricata*), loggerhead sea turtle (*Caretta caretta*), leatherback sea turtle (*Dermochelys coriacea*), Kemp's ridley sea turtle (*Lepidochelys kempii*).	Florida	Research on survival of rehabilitated turtles and on microbial changes as a result of treatment.	Collect blood, cloacal specimens, colonic specimens, and mesenchymal stem cells; PIT-tag; flipper tag; and attach satellite transmitter prior to release.	Renewal/ Amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 125557–3	Barbara Allen, Mobile, AL.	Alabama beach mouse (*Peromyscus polionotus ammobates*) and Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*).	Alabama	Presence/absence surveys.	Capture, mark, examine, and release.	Renewal.
PER 0018443 ...	US Army Engineer Research & Development Center, Vicksburg, MS.	Fish: Pallid sturgeon (*Scaphirhynchus albus*); Mussels: Fat threeridge (*Amblema neislerii*), Chipola slabshell (*Elliptio chipolaensis*), purple bankclimber (*Elliptoideus sloatianus*), shinyrayed pocketbook (*Hamiota subangulata*), pink mucket (*Lampsilis abrupta*), orangefoot pimpleback (*Plethobasus cooperianus*), sheepnose (*Plethobasus cyphyus*), oval pigtoe (*Pleurobema pyriforme*), fat pocketbook (*Potamilus capax*), Alabama heelsplitter (=inflated) (*Potamilus inflatus*), and rabbitsfoot (*Quadrula cylindrica cylindrica*).	Arkansas, Florida, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Ohio, Tennessee, and West Virginia.	Presence/absence surveys and population monitoring.	Pallid sturgeon: Capture, handle, PIT-tag, insert internal or external telemetry tag, and release; Mussels: Capture, handle, and release.	New.
PER 0018626 ...	Timothy Black, Wake Forest, NC.	Florida bonneted bat (*Eumops floridanus*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), gray bat (*Myotis grisescens*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*).	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.	Presence/absence surveys and counts.	Use of unmanned aircraft systems to assist survey efforts.	New.
TE 56588D–2	Martin Melville, Marietta, GA.	Reptiles: Eastern indigo snake (*Drymarchon corais couperi*); Amphibians: reticulated flatwoods salamander (*Ambystoma bishopi*) and frosted flatwoods salamander (*Ambystoma cingulatum*); Fish: Carolina madtom (*Noturus furiosus*), Cape Fear shiner (*Notropis mekistocholas*), Roanoke logperch (*Percina rex*), and Waccamaw silverside (*Menidia extensa*); and Mussels: James spinymussel (*Pleurobema collina*).	Georgia and North Carolina.	Presence/absence surveys.	Capture, handle, identify, and release.	Amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 061005–3	International Carnivorous Plant Society, Inc., Walnut Creek, CA.	Godfrey's butterwort (*Pinguicula ionantha*), Alabama cane break pitcher (*Sarracenia rubra* ssp. *alabamensis*), green pitcher-plant (*Sarracenia oreophila*), and Mountain sweet pitcher-plant (*Sarracenia rubra* ssp. *jonesii*).	California	Interstate commerce	Sell in interstate commerce.	Renewal.
TE 156392–4	Skybax Ecological Services, LLC, Berea, KY.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*).	Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys and population monitoring.	Enter hibernacula and maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, and collect hair.	Renewal.
TE 60238B–1	Georgia Museum of Natural History, Athens, GA.	Blue shiner (*Cyprinella caerulea*), Etowah darter (*Etheostoma* etowahae), Cherokee darter (*Etheostoma scotti*), trispot darter (*Etheostoma trisella*), amber darter (*Percina antesella*), goldline darter (*Percina aurolineata*), and Conasauga logperch (*Percina jenkinsi*).	Georgia and Tennessee	Presence/absence surveys.	Capture, handle, fin-clip, and release.	Renewal/ Amendment.
TE 178815–1	Kentucky Department of Fish and Wildlife Resources, Frankfort, KY.	Spectaclecase (mussel) (*Cumberlandia monodonta*), oyster mussel (*Epioblasma capsaeformis*), tan riffleshell (*Epioblasma florentina walkeri* (=*E. walkeri*)) snuffbox mussel (*Epioblasma triquetra*), birdwing pearlymussel (*Lemiox rimosus*), slabside pearlymussel (*Pleuronaia dolabelloides*), fluted kidneyshell (*Ptychobranchus subtentus*), rough rabbitsfoot (*Quadrula cylindrica strigillata*), Appalachian monkeyface (pearlymussel) (*Quadrula sparsa*), rayed bean (*Villosa fabalis*), and Cumberland bean (pearlymussel) (*Villosa trabalis*).	Alabama, Georgia, Illinois, Indiana, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia.	Captive propagation, research, and reintroduction.	Capture, handle, transport, propagate, tag, release, and salvage relict shells.	Renewal/ Amendment.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

John Tirpak,

Deputy Assistant Regional Director, Ecological Services.

[FR Doc. 2021–23958 Filed 11–2–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[DOI–2021–0012; 223D0102DM, DLSN00000.000000, DS64600000, DX.64601]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior (DOI or Department) is issuing a public notice of its intent to create a Privacy Act system of records titled, ''INTERIOR/DOI–93, Reasonable Accommodation Request Records.'' This system of records notice (SORN) describes DOI's collection, maintenance, and use of records related to requests for reasonable accommodation under Title VII of the Civil Rights Act of 1964 or the applicable provisions of the Americans with Disabilities Act as applied to the Federal Government through the Rehabilitation Act. This newly established system will be included in DOI's inventory of record systems.

DATES: This new system will be effective upon publication. New routine uses will be effective December 3, 2021. Submit comments on or before December 3, 2021.

ADDRESSES: You may send comments identified by docket number [DOI–2021–0012] by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Email: DOI_Privacy@ios.doi.gov.* Include docket number [DOI–2021–0012] in the subject line of the message.
- *U.S. mail or hand-delivery:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

Instructions: All submissions received must include the agency name and docket number [DOI–2021–0012]. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Washington, DC 20240, *DOI_Privacy@ios.doi.gov* or 202–208–1605.

SUPPLEMENTARY INFORMATION:

I. Background

The DOI Office of Human Capital is establishing a new Department-wide system of records, INTERIOR/DOI–93, Reasonable Accommodation Request Records. This system helps DOI manage records related to the processing of requests from employees and applicants for employment who are seeking a reasonable accommodation based on religious belief, disability, or other condition as required by Federal laws, regulations, and policies to ensure these individuals are provided an accommodation to the greatest extent possible as provided for in Federal law.

During a review of processes established for reasonable accommodation requests related to the Federal government's response to the COVID–19 disease, the Department identified a need for a focused SORN under the Privacy Act for records related to requests for reasonable accommodation. These records have been previously maintained under government-wide SORNs published by the Office of Personnel Management (OPM), however, it was determined to be appropriate for each agency to establish and maintain its own system of records for employee requests for reasonable accommodation. This notice covers all records and information related to requests for reasonable accommodation under Title VII of the Civil Rights Act of 1964 or the applicable provisions of the Americans with Disabilities Act as applied to the Federal Government through the Rehabilitation Act that are submitted by, or on behalf of, Federal employees and applicants for employment, and the agency decisions and actions taken on those requests.

Under Section 501 of the Rehabilitation Act of 1973 (the Rehabilitation Act), as amended, DOI must provide reasonable accommodation upon request from a qualified employee with a disability that would enable the employee to perform the essential functions of the employee's position unless no accommodation can be provided that does not impose an undue hardship on the Department. A reasonable accommodation is an adjustment or alteration that enables a qualified person with a disability to apply for a job, perform job duties, or enjoy benefits and privileges of employment. A ''disability'' means a physical or mental impairment that substantially limits one or more major life activities. An impairment that is episodic may constitute a disability if it substantially limits one or more major life activities when active. A qualified employee is an employee who satisfies the requisite skills, experience, education, and other job-related requirements as defined by applicable law. In other words, an employee is qualified if the employee can perform the essential functions of the employee's position with or without a reasonable accommodation.

Title VII of the Civil Rights Act of 1964 requires agencies to reasonably accommodate the sincerely held religious beliefs, observances, and practices of an employee unless doing so would impose an undue hardship to the agency. An accommodation for a sincerely held religious belief is any adjustment to the work environment that will resolve, or reduce to a reasonable level, the conflict between an employee's sincerely held religious belief, observance, or practice and an employment requirement.

II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to records about individuals that are maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DOI by complying with DOI Privacy Act regulations at 43 CFR part 2, subpart K, and following the procedures outlined in the Records Access, Contesting Record, and Notification Procedures sections of this notice.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the existence and

character of each system of records that the agency maintains and the routine uses of each system. The INTERIOR/DOI–93, Reasonable Accommodation Request Records, SORN is published in its entirety below. In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

III. Public Participation

You should be aware your entire comment including your personally identifiable information, such as your address, phone number, email address, or any other personal information in your comment, may be made publicly available at any time. While you may request to withhold your personally identifiable information from public review, we cannot guarantee we will be able to do so.

SYSTEM NAME AND NUMBER:

INTERIOR/DOI–93, Reasonable Accommodation Request Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained by the Office of Human Capital, U.S. Department of the Interior, 1849 C Street NW, Washington, DC 20240. Records are also located at DOI bureaus and offices in Washington, DC and at field locations that process reasonable accommodation requests, and at DOI contractor facilities.

SYSTEM MANAGER(S):

Director, Division of Workforce Relations, Office of Human Capital, U.S. Department of the Interior, 1849 C Street NW, MIB 4323, Washington, DC 20240.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791); Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), as amended by the Americans with Disabilities Act Amendments Act of 2008 (Pub. L. 110–325); Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e, *et seq.*); 29 CFR part 1630, *Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act;* 29 CFR part 1640, *Procedures for Coordinating the Investigation of Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973;* 29 CFR part 1614, *Federal Sector Equal Employment Opportunity;* 29 CFR Part. 1605, *Guidelines on Discrimination Because of Religion;* 29 CFR part 1635, Genetic Information Nondiscrimination Act of 2008 (Pub. L. 110–233); 5 CFR part 335, *Promotion and Internal Placement;* Executive Order No. 13164, *Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation;* Executive Order 14043, *Requiring Coronavirus Disease 2019 Vaccination for Federal Employees;* and Equal Employment Opportunity Commission Management Directive 715.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to maintain records related to the processing of requests from employees and applicants for employment who are seeking a reasonable accommodation based upon disability under the Rehabilitation Act or for a religious belief, observance, or practice under Title VII of the Civil Rights Act of 1964.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system includes individuals who request reasonable accommodation, and agency officials processing or making reasonable accommodation assessments and decisions. These records also include information on authorized individuals, such as a family member, health professional, or other representative submitting the request on behalf of an individual.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system maintains records related to reasonable accommodation requests, including the requester's contact information, the nature of the disability, condition or the basis for the accommodation, supporting documentation such as forms, letters, memoranda or medical records, and the request status, agency assessment, decision and related correspondence. These records may include but are not limited to:

- Name;
- Individual requester's status as an applicant, current or former employee, or other status;
- Individual requester's occupational series and grade level for which reasonable accommodation had been requested;
- Contact information such as work or personal address, phone number, and email address;
- Date a request was submitted verbally or in writing;
- Documented requests for different type(s) of reasonable accommodation requested;
- How the requested accommodation would assist in job performance;
- Supervisor's name, address, and contact information;
- Name and contact information of a family member, health professional, or other representative submitting a request on behalf of an individual;
- Medical documentation about a disability or medical condition, or other appropriate supporting information submitted or required to process the request, any other necessary request-related information, requests for medical extensions or temporary measures, and any proposed reasonable accommodation that will resolve any conflict between the employee's request and job requirements;
- Records on religious beliefs, observances or practices including descriptions of employee's belief, observance or practice, medicines or medical products that are used or not used by an employee due to a belief, observance or practice, the extent of any burden on the employee's religious exercise, and any proposed reasonable accommodation that will resolve any conflict between the employee's religious belief, observance, and practice and the job requirement;
- Name, title, and contact information of DOI officials processing, deciding or referring a request for reasonable accommodation;
- Agency decisions including whether a request was granted or denied, reasons for a denial, date a request was approved or denied, date a reasonable accommodation was provided to the individual;
- Records of type(s) of accommodation provided, as well as the source of any technical assistance;
- The amount of time taken to process a request, including whether the recommended time frames were met as outlined in the reasonable accommodation procedures;
- Records of reassignments and information such as resume, transcript, reassignment questionnaire, and/or other relevant documents; qualification information; types of position(s) to search for based on the employee's qualifications and current series and grade; highest full performance level (FPL) for reassignment; and minimal information regarding the accommodation needed; and
- Any other information that is submitted by individuals in support of requests for reasonable accommodation, or that is necessary and relevant to support agency assessments and the management of a reasonable accommodation program.

RECORD SOURCE CATEGORIES:

Records are obtained from DOI employees, applicants for employment; medical providers, health professionals, medical institutions; family members or representatives who submit requests on behalf of individuals; employee supervisors, human resources and other DOI officials. Some records may be obtained from other Federal agencies or DOI bureau and office records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOI as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

(1) DOI or any component of DOI;

(2) Any other Federal agency appearing before the Office of Hearings and Appeals;

(3) Any DOI employee or former employee acting in his or her official capacity;

(4) Any DOI employee or former employee acting in his or her individual capacity when DOI or DOJ has agreed to represent that employee or pay for private representation of the employee; or

(5) The United States Government or any agency thereof, when DOJ determines that DOI is likely to be affected by the proceeding.

B. To a congressional office when requesting information on behalf of, and at the request of, the individual who is the subject of the record.

C. To the Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf, or for a purpose compatible with the reason for which the records are collected or maintained.

D. To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

E. To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

F. To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

G. To representatives of the National Archives and Records Administration (NARA) to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

H. To state, territorial and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

I. To an expert, consultant, grantee, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

J. To appropriate agencies, entities, and persons when:

(1) DOI suspects or has confirmed that there has been a breach of the system of records;

(2) DOI has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOI (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOI's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

K. To another Federal agency or Federal entity, when DOI determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(1) Responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

L. To the Office of Management and Budget (OMB) during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

M. To the Department of the Treasury to recover debts owed to the United States.

N. To the news media and the public, with the approval of the Public Affairs Officer in consultation with counsel and the Senior Agency Official for Privacy, where there exists a legitimate public interest in the disclosure of the information, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

O. To another federal agency or commission with responsibility for labor or employment relations or other issues, including equal employment opportunity and reasonable accommodation issues, when that agency or commission has jurisdiction over reasonable accommodation to facilitate that agency or commission's exercise of such jurisdiction.

P. To OMB, DOJ, Department of Labor (DOL), Office of Personnel Management (OPM), Equal Employment Opportunity Commission (EEOC), Office of Special Counsel (OSC), or other federal agency or organization that has responsibility for labor or employment relations, equal employment opportunity and reasonable accommodation issues, when the agency or commission has jurisdiction over the subject matter and to obtain advice regarding statutory, regulatory, policy, and other requirements related to reasonable accommodation.

Q. To appropriate third parties contracted by DOI to facilitate mediation or other dispute resolution procedures or programs.

R. To a Federal agency or organization for purposes of procuring assistive technologies and services through the Computer/Electronic Accommodation Program, or other program, in response to a request for reasonable accommodation.

S. To a Federal agency or entity that requires information relevant or related to a reasonable accommodation decision and/or its implementation.

T. To attorneys, union representatives, or other persons designated by DOI employees in writing to represent them in a grievance, complaint, appeal, or in litigation, as appropriate and in accordance with applicable law.

U. To an authorized appeal grievance examiner, formal complaints examiner,

administrative judge, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation, settlement, arbitration, litigation, or other process relevant to a grievance, complaint, appeal, or litigation initiated by an employee, as appropriate and in accordance with applicable law.

V. To labor organization officials when such information is relevant to personnel policies affecting employment conditions and necessary for exclusive representation by the labor organization, as appropriate and in accordance with applicable law.

W. To the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations into alleged or possible discriminatory practices in the Federal sector, examination of Federal affirmative employment programs, merit system principles, or other compliance functions vested in the EEOC.

X. To the Federal Labor Relations Authority, the General Counsel, the Federal Mediation and Conciliation Service, the Federal Service Impasses Panel, or an arbitrator when information is requested in connection with the investigations of allegations of unfair practices, matters before an arbitrator or the Federal Impasses Panel.

Y. To the Merit Systems Protection Board or the Office of the Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and other such functions promulgated in 5 U.S.C. Chapter 12, or as may be authorized by law.

Z. To another Federal agency as a prospective employer of a DOI employee upon transfer of the employee to the Federal agency.

AA. To medical personnel and first responders, to meet a bona fide emergency, including medical emergencies.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic records are stored in secure facilities. Confidential employee records are maintained with appropriate administrative, physical and technical controls to protect individual privacy. Paper records are contained in file folders stored in file cabinets in secure office locations.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by any of the categories of records, including name and contact information.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are maintained in accordance with Department Records Schedule (DRS) DAA–GRS–2013–0001–0004 (DRS 1.2, Item 0004)—Short-Term Human Resources Records, Reasonable Accommodation Records, Reasonable Accommodation Employee Case Files. The disposition is temporary. Records are destroyed three years after employee transfer or separation from the agency or all appeals are concluded, whichever is later, but longer retention is authorized if required for business use.

Approved destruction methods for temporary records that have met their retention period include shredding or pulping paper records, and erasing or degaussing electronic records in accordance with DOI policy and NARA guidelines.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records contained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security and privacy rules and policies. During normal hours of operation, paper records are maintained in locked file cabinets under the control of authorized personnel. Computer servers on which electronic records are stored are located in secured DOI controlled facilities with physical, technical and administrative levels of security to prevent unauthorized access to the DOI network and information assets. Access is only granted to authorized personnel and each person granted access to the system must be individually authorized to use the system. A Privacy Act Warning Notice appears on computer monitor screens when records containing information on individuals are first displayed. Data exchanged between the servers and the system is encrypted. Backup tapes are encrypted and stored in a locked and controlled room in a secure, off-site location.

Computerized records systems follow the National Institute of Standards and Technology privacy and security standards as developed to comply with the Privacy Act of 1974, as amended, 5 U.S.C. 552a; Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.;* Federal Information Security Modernization Act of 2014, 44 U.S.C. 3551 *et seq.;* and the Federal Information Processing Standards 199: Standards for Security Categorization of Federal Information and Information Systems. Security controls include user identification, multi-factor authentication, database permissions, encryption, firewalls, audit logs, network system security monitoring, and software controls.

Access to records in the system is limited to authorized personnel who have a need to access the records in the performance of their official duties, and each user's access is restricted to only the functions and data necessary to perform that person's job responsibilities. System administrators and authorized users are trained and required to follow established internal security protocols and must complete all security, privacy, and records management training and sign the DOI Rules of Behavior.

RECORD ACCESS PROCEDURES:

An individual requesting records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. The request envelope and letter should both be clearly marked ''PRIVACY ACT REQUEST FOR ACCESS.'' A request for access must meet the requirements of 43 CFR 2.238.

CONTESTING RECORD PROCEDURES:

An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the System Manager identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. The request envelope and letter should both be clearly marked ''PRIVACY ACT INQUIRY.'' A request for notification must meet the requirements of 43 CFR 2.235.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Teri Barnett,

Departmental Privacy Officer, Department of the Interior.

[FR Doc. 2021–24064 Filed 11–1–21; 4:15 pm]

BILLING CODE 4334–63–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–345]

Recent Trends in U.S. Services Trade, 2022 Annual Report

AGENCY: United States International Trade Commission.

ACTION: Schedule for 2022 report and opportunity to submit information.

SUMMARY: The Commission has prepared and published annual reports in this series under Investigation No. 332–345, *Recent Trends in U.S. Services Trade,* since 1996. The 2022 report, which the Commission plans to publish in May 2022, will provide aggregate data on cross-border trade in services for the period ending in 2020, and transactions by affiliates based outside the country of their parent firm for the period ending in 2019. The report's analysis will focus on electronic and digital services (including audio-visual services, computer services, and telecommunications services). The Commission is inviting interested members of the public to furnish information and views in connection with the 2022 report.

DATES:

January 7, 2022: Deadline for filing written submissions.

May 9, 2022: Anticipated date for online publication of the report.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E St. SW, Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E St. SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket information system (EDIS) at *https://edis.usitc.gov/.*

FOR FURTHER INFORMATION CONTACT: Information specific to this investigation may be obtained from Eric Forden, Project Leader, Office of Industries, Services Division (202–205–3235, *eric.forden@usitc.gov*), Dixie Downing, Deputy Project Leader, Office of Industries, Advanced Technology and Machinery Division (202–205–3164, *dixie.downing@usitc.gov*), or Services Division Chief Martha Lawless (202–205–3497, *martha.lawless@usitc.gov*). For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091; *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819; *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its website (*https://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: The 2022 annual services trade report will provide aggregate data on cross-border trade in services for 2016–2020 and affiliate transactions in services for 2015–2019, and more specific data and information on trade in electronic and digital services (audio-visual, computer, and telecommunications services). Under Commission Investigation No. 332–345, the Commission publishes two annual reports, one on services trade (*Recent Trends in U.S. Services Trade*), and a second on merchandise trade (*Shifts in U.S. Merchandise Trade*). The Commission's 2021 *Recent Trends in U.S. Services Trade* report is now available online at *https://www.usitc.gov*.

The initial notice of institution of this investigation was published in the **Federal Register** on September 8, 1993 (58 FR 47287) and provided for what is now the report on merchandise trade. The Commission expanded the scope of the investigation to cover services trade in a separate report, which it announced in a notice published in the **Federal Register** on December 28, 1994 (59 FR 66974). The separate report on services trade has been published annually since 1996, except in 2005. As in past years, the report will summarize U.S. trade in services in the aggregate and provide analyses of trends and developments in selected services industries during the latest period for which data are published by the U.S. Department of Commerce, Bureau of Economic Analysis.

Written Submissions: Interested parties are invited to file written submissions and other information concerning the matters to be addressed by the Commission in its 2022 report. For the 2022 report, the Commission is particularly interested in receiving information relating to trade in electronic and digital services (audio-visual, computer, and telecommunications services). Submissions should be addressed to the Secretary. To be assured of consideration by the Commission, written submissions related to the Commission's report should be submitted at the earliest practical date and should be received not later than 5:15 p.m., January 7, 2022. All written submissions must conform to the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), as temporarily amended by 85 FR 15798 (March 19, 2020). Under that rule waiver, the Office of the Secretary will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802), or consult the Commission's *Handbook on Filing Procedures.*

Confidential Business Information. Any submissions that contain confidential business information (CBI) must also conform with the requirements in section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are confidential or non-confidential, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission intends to prepare only a public report in this investigation. The report that the Commission makes available to the public will not contain confidential business information. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C.

Appendix 3; or (ii) by U.S. government employees and contract personnel solely for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a manner that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: The Commission intends to publish summaries of the positions of interested persons in this report. If you wish to have a summary of your position included in an appendix to the report, please include a summary with your written submission and mark the summary as submitted for that purpose. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. In the report the Commission will identify the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: October 28, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–23913 Filed 11–2–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–921]

Bulk Manufacturer of Controlled Substances Application: Nanosyn Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Nanosyn Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTAL INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before January 3, 2022. Such persons may also file a written request for a hearing on the application on or before January 3, 2022.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on September 23, 2021, Nanosyn Inc., 3331 Industrial Drive, Suite B, Santa Rosa, California 95403–2062, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Oxymorphone	9652	II
Fentanyl	9801	II

The company is a contract manufacturer. At the request of the company's customers, it manufactures derivatives of the above controlled substances in bulk form. No other activities for these drug codes are authorized for this registration.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2021–23982 Filed 11–2–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–920]

Importer of Controlled Substances Application: Fisher Clinical Services, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Fisher Clinical Services, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before December 3, 2021. Such persons may also file a written request for a hearing on the application on or before December 3, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on August 25, 2021, Fisher Clinical Services, Inc., 7554 Schantz Road, Allentown, Pennsylvania 18106–9032, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Psilocybin	7437	I
Methylphenidate	1724	II
Levorphanol	9220	II
Noroxymorphone	9668	II
Tapentadol	9780	II

The company plans to import the listed controlled substances for clinical trials only. No other activity for these drug codes is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2021–23897 Filed 11–2–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–918]

Bulk Manufacturer of Controlled Substances Application: Groff Global

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Groff Global has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before January 3, 2022. Such persons may also file a written request for a hearing on the application on or before January 3, 2022.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on September 8, 2021, Groff Global, 2218 South Queen Street, York, Pennsylvania 17402–4631, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Psilocybin	7437	I
Psilocyn	7438	I

The company plans to bulk manufacture the listed controlled substances for internal use or for sale to its customers.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2021–23898 Filed 11–2–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Technical Advisory Committee; Notice of Meeting and Agenda

The Bureau of Labor Statistics Technical Advisory Committee will meet on Friday, November 19, 2021. This meeting will be held virtually from 10:00 a.m. to 4:00 p.m. EST.

The Committee presents advice and makes recommendations to the Bureau of Labor Statistics (BLS) on technical aspects of data collection and the formulation of economic measures and makes recommendations on areas of research. The BLS presents issues and then draws on the expertise of Committee members representing specialized fields within the academic disciplines of economics, statistics and data science, and survey design. The Federal Advisory Committee Act requires that agencies publish notice of an advisory committee meeting in the **Federal Register**.

The schedule and agenda for the meeting are as follows:

10:00 a.m. Commissioner's Welcome and Review of Agency Developments
10:30 a.m. Insurance Claims Data in Medical Care Price Indexes
1:00 p.m. Generating New Data on Emerging Topics Using the New QCEW Business Supplement (QBS)
2:30 p.m. Adjusting Industry Measures of Hours Worked for Labor Composition
4:00 p.m. Approximate Conclusion

The meeting is open to the public. Any questions concerning the meeting should be directed to Sarah Dale, Bureau of Labor Statistics Technical Advisory Committee, at *BLSTAC@bls.gov.* Individuals planning to attend the meeting should register at *https://blstac.eventbrite.com.* Individuals who require special accommodations should contact Ms. Dale at least two days prior to the meeting date.

Signed at Washington, DC, this 27th day of October 2021.

Eric Molina,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2021–23894 Filed 11–2–21; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0012]

Modification to the List of Appropriate NRTL Program Test Standards and the Scope of Recognition of Several NRTLs

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to: (1) Add seven new test standards to the Nationally Recognized Testing Laboratories (NRTL) Program's list of appropriate test standards; (2) delete or replace several test standards from the NRTL Program's list of appropriate test standards; and (3) update the scope of recognition of several NRTLs.

DATES: The actions contained in this notice will become effective on November 3, 2021.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration; telephone: (202) 693–2110 or email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html).*

SUPPLEMENTARY INFORMATION:

I. Background

The NRTL Program recognizes organizations that provide product-safety testing and certification services to manufacturers. These organizations perform testing and certification for purposes of the program, to U.S. consensus-based product-safety test standards. The products covered by the NRTL Program consist of those items for which OSHA safety standards require ''certification'' by a NRTL. The requirements affect electrical products and 38 other types of products. OSHA does not develop or issue these test standards, but generally relies on standards development organizations (SDOs), which develop and maintain the standards using a method that provides input and consideration of views of industry groups, experts, users, consumers, governmental authorities and others having broad experience in the safety field involved.

A. Addition of New Test Standards to the NRTL List of Appropriate Test Standards

Periodically, OSHA will add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by a NRTL, (2) verify the document represents an end product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) Monitoring notifications issued by certain SDOs; (2) reviewing applications by NRTLs or applicants seeking recognition to include a new test standard in their scope of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties that a new test standard may be

appropriate to add to the list of appropriate standards. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers, addresses a type of product that no standard previously covered, or is otherwise new to the NRTL Program.

B. SDO Deletion and Replacement of Test Standards

The NRTL Program regulations require that appropriate test standards be maintained and current (29 CFR 1910.7(c)). A test standard withdrawn by a standards development organization is no longer considered an appropriate test standard (CPL 01–00–004, NRTL Program Policies, Procedures and Guidelines Directive, Chapter 2, IX). It is OSHA's policy to remove recognition of withdrawn test standards by issuing a correction notice in the **Federal Register** for all NRTLs recognized for the withdrawn test standards. However, SDOs frequently will designate a replacement standard for withdrawn standards. OSHA will recognize a NRTL for an appropriate replacement test standard if the NRTL has the requisite testing and evaluation capability for the replacement test standard.

One method that NRTLs may use to show such capability involves an analysis to determine whether any testing and evaluation requirements of existing test standards in a NRTL's scope are comparable (*i.e.,* are completely or substantially identical) to the requirements in the replacement test standard. If OSHA's analysis shows the replacement test standard does not require additional or different technical capability than an existing test standard(s), and the replacement test standard is comparable to the existing test standard(s), then OSHA can add the replacement test standard to affected NRTLs' scope of recognition. If OSHA's analysis shows the replacement test standard requires an additional or different technical capability, or the replacement test standard is not comparable to any existing test standards, each affected NRTL seeking to have OSHA add the replacement test standard to the NRTL's scope of recognition must provide information to OSHA that demonstrates technical capability.

C. Other Reasons for Removal of Test Standards From the NRTL List of Appropriate Test Standards

OSHA may choose to remove a test standard from the NRTL Program's List of Appropriate Test Standards based on an internal review in which NRTL Program staff review the NRTL Program's List of Appropriate Test Standards to determine if the test standards conform to the definition of an appropriate test standard defined in NRTL Program regulations and policy. There are several reasons for removing a test standard based on this review. First, a document that provides the methodology for a single test is a test method rather than an appropriate test standard (29 CFR 1910.7(c)). As stated above, a test standard must specify the safety requirements for a specific type of product(s). A test method, however, is a specified technical procedure for performing a test. As such, a test method is not an appropriate test standard. While a NRTL may use a test method to determine if certain safety requirements are met, a test method is not itself a safety requirement for a specific product category.

Second, a document that focuses primarily on usage, installation, or maintenance requirements would also not be considered an appropriate test standard (NRTL Program Policies, Procedures and Guidelines Directive, CPL–01–00–004, Chapter 2, Section VIII, B). In some cases, however, a document may also provide safety test specifications in addition to usage, installation, and maintenance requirements. In such cases, the document would be retained as an appropriate test standard based on the safety test specifications.

Finally, a document may not be considered an appropriate test standard if the document covers products for which OSHA does not require testing and certification (NRTL Program Policies, Procedures and Guidelines Directive, CPL–01–00–004, Chapter 2, Section VIII, B). Similarly, a document that covers electrical product components would not be considered an appropriate test standard. These documents apply to types of components that have limitation(s) or condition(s) on their use, which are not appropriate for use as end-use products. These documents also specify that these types of components are for use only as part of an end-use product. NRTLs, however, evaluate such components only in the context of evaluating whether end-use products requiring NRTL approval are safe for use in the workplace. Testing such components alone would not indicate that the end-use products containing the components are safe for use. Accordingly, as a matter of policy, OSHA considers that documents covering such components are not appropriate test standards under the NRTL Program. OSHA notes, however, that it is not deleting from NRTLs' scope of recognition any test standards covering end-use products that contain such components.

In addition, OSHA notes that, to conform to a test standard covering an end-use product, a NRTL must still determine that the components in the product comply with the components' specific test standards. In making this determination, NRTLs may test the components themselves, or accept the testing of a qualified testing organization that a given component conforms to the particular test standard. OSHA reviews each NRTL's procedures to determine which approach the NRTL will use to address components, and reviews the end-use product testing to verify the NRTL appropriately addresses that product's components.

D. Modification to the List of Appropriate NRTL Program Test Standards and the Scope of Recognition of Several NRTLs

OSHA published a **Federal Register** notice announcing the proposal to modify the NRTL Program's List of Appropriate Test Standards and the Scope of Recognition for Several NRTLs on August 16, 2021 (86 FR 45755). OSHA requested comments by August 31, 2021. However, OSHA received no comments in response to this notice. OSHA is now proceeding with this final notice to update the NRTL Program's List of Appropriate Test Standards and the Scope of Recognition for Several NRTLs.

In this notice, OSHA announces the final decision to remove certain test standards (*i.e.,* those listed in Table 2, below) from the scope of recognition of several NRTLs and to add to the scope of recognition of some of these NRTLs a replacement test standard, as applicable (Table 1). The tables in this section (Table 3 through Table 7) list, for each affected NRTL, the test standard(s) that OSHA is removing from the scope of recognition of the NRTL, along with the replacement test standard (as applicable).

II. Final Decision To Add New Test Standards to the NRTL Program's List of Appropriate Test Standards

In this notice, OSHA announces the final decision to add seven test standards to the NRTL Program's list of appropriate test standards. The standards OSHA is adding to the NRTL Program's list of appropriate test standards are indicated below in Table 1:

TABLE 1—TEST STANDARDS OSHA IS ADDING TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard to be added	Test standard title
UL 970	Standard for Retail Fixtures and Merchandise Displays.
UL 62841–2–17	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–17: Particular Requirements for Hand-Held Routers.
UL 62841–4–1	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn And Garden Machinery—Safety—Part 4–1: Particular Requirements for Chain Saws.
UL 62841–4–2	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn And Garden Machinery—Safety—Part 4–2: Particular Requirements for Hedge Trimmers.
CSA/ANSI C22.2 No. 336	Particular requirements for rechargeable battery-operated commercial robotic floor treatment machines with traction drives.
UL 61730–1	Standard for Photovoltaic (PV) Module Safety Qualification—Part 1: Requirements for Construction.
UL 61730–2	Photovoltaic (PV) Module Safety Qualification—Part 2: Requirements for Testing.

III. Final Decision To Remove Test Standards From the NRTL Program's List of Appropriate Test Standards

In this notice, OSHA announces the final decision to delete eight withdrawn and deleted test standards from the NRTL Program's List of Appropriate Test Standards. OSHA also incorporates into the NRTL Program's List of Appropriate Test Standards a replacement test standard for one of the withdrawn and deleted test standards (UL 61010A–2–042) as indicated below in Table 2:

TABLE 2—TEST STANDARDS OSHA IS REMOVING FROM THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Deleted test standard	Test standard title	Reason for deletion	Replacement standard(s)
UL 2231–1	Personnel Protection Systems for Electric Vehicle (EV) Supply Circuits: General Requirements.	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 2231–2	Personnel Protection Systems for Electric Vehicle (EV) Supply Circuits: Particular Requirements for Protection Devices for Use in Charging Systems.	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 224	Extruded Insulating Tubing	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 969	Marking and Labeling Systems	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 1332	Organic Coatings for Steel Enclosures for Outdoor Use Electrical Equipment.	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 1441	Coated Electrical Sleeving	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 1446	Systems of Insulating Materials-General	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 61010A–2–042	Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Autoclaves and Sterilizers Using Toxic Gas for the Treatment of Medical Materials, and for Laboratory Processes.	Withdrawn and replaced	UL 61010–1 (no direct replacement for UL 61010A–2–042).

IV. Final Decision To Modify Affected NRTLs' Scopes of Recognition

In this notice, OSHA also announces the final decision to update the scopes of recognition of several NRTLs. The tables in this section (Table 3 through Table 7) list, for each affected NRTL, the test standard(s) that OSHA will delete from the scope of recognition and, when applicable, the test standard that OSHA will incorporate into the scope of recognition to replace one of the withdrawn (and deleted) test standards.

TABLE 3—TEST STANDARDS OSHA IS REMOVING FROM/ADDING TO THE SCOPE OF RECOGNITION OF CSA GROUP TESTING & CERTIFICATION INC.

Test standard to be removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 224	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 969	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 1441	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 1446	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 61010A–2–042	Withdrawn and replaced	UL 61010–1 (no direct replacement).

TABLE 4—TEST STANDARDS OSHA IS REMOVING FROM/ADDING TO THE SCOPE OF RECOGNITION OF INTERTEK TESTING SERVICES NA, INC.

Test standard to be removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 224	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 969	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 1441	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 1446	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 61010A–2–042	Withdrawn and replaced	UL 61010–1 (no direct replacement).

TABLE 5—TEST STANDARD OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF TUV RHEINLAND OF NORTH AMERICA, INC.

Test standard to be removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 224	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.

TABLE 6—TEST STANDARD OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF TUV SUD AMERICA, INC.

Test standard to be removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 969	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.

TABLE 7—TEST STANDARDS OSHA IS REMOVING FROM/ADDING TO THE SCOPE OF RECOGNITION OF UL LLC

Test standard to be removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 2231–1	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 2231–2	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 224	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 969	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 1332	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 1441	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 1446	Standard is component standard and not an end-product standard. It does not meet the requirements of the NRTL Program.	None.
UL 61010A–2–042	Withdrawn and replaced	UL 61010–1 (no direct replacement).

OSHA will place on its informational web pages the modifications to each NRTL's scope of recognition. These web pages detail the scope of recognition for each NRTL, including the test standards the NRTL may use to test and certify products under OSHA's NRTL Program. OSHA also will add to the list of ''Appropriate Test Standards'' web page, those test standards added to the NRTL Program's List of Appropriate Test Standards. The agency will add to the ''Standards No Longer Recognized'' web page those test standards that OSHA no longer recognizes or permits under the NRTL Program. Access to these web pages is available at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

V. Authority and Signature

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on September 27, 2021.

James S. Frederick,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–23893 Filed 11–2–21; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 3 and 4; Issuance of Amendment and Exemption Changes to Tier 1 Information Regarding Invessel Components

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the Tier 1 certification information in the generic design control document (DCD) for the AP1000 design certification and is issuing License Amendment Nos. 188 and 186 to Combined Licenses (COLs), NPF–91 and NPF–92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc. (SNC), and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia; for the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia. SNC is the entity that is licensed to construct and operate VEGP Units 3 and 4. The granting of the exemption allows the departures from Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on October 15, 2021.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was designated License Amendment Request (LAR) 21–001 and submitted by letter dated August 24, 2021 (ADAMS Accession No. ML21236A305).
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Billy Gleaves, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301 415–5848; email: *Bill.Gleaves@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing License Amendment Nos. 188 and 186 to COLs NPF–91 and NPF–92, respectively, and is granting an exemption from Tier 1 information in the plant-specific DCD for the AP1000. The AP1000 DCD is incorporated by reference in appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR). The exemption, granted pursuant to paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' of 10 CFR part 52, appendix D, allows the licensee to depart from the Tier 1 information. With the requested amendment, SNC sought proposed changes to requirements in the plant-specific Tier 1 information and COL appendix C that are associated with components that cannot be installed in their final operational location until fuel is loaded into the reactor. The license amendment as issued revises Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) Nos. 68 (2.1.03.01), 75 (2.1.03.06.i), 515 (2.5.01.03e), 565 (2.5.05.02.i), and 570 (2.5.05.03b) in COL appendix C and plant-specific design control document (PS–DCD) Tier 1 information to remove requirements regarding location-specific inspection of components where the requirements are intended to reflect the final installed location of the components, and certain components cannot be installed in their final location until after fuel load. Because ITAAC must be satisfied before fuel load, these ITAAC could not have been completed as written. As revised, the ITAAC can be completed, and the ITAAC combined with post-fuel load verifications still verify that the applicable design requirements are met. The changes to the ITAAC and to the PS–DCD Tier 1 information also clarify certain design terminology and eliminate duplication.[1]

Part of the justification for granting the exemption was provided by the

[1] The amendment as issued differs from the proposed license markups in the LAR in two respects: (1) The NRC made certain non-substantive editorial changes to reflect the standard format of the license, and (2) the NRC applied a requested change for one ITAAC to a more limited set of components to be consistent with the justification provided in the LAR and the LAR's discussion of SNC's planned actions.

review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in §§ 50.12, 52.7, 52.63, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML21237A240.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to SNC for VEGP Units 3 and 4 (COLs NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML21237A238 and ML21237A239, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for VEGP COLs NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML21237A234 and ML21237A236, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated August 24, 2021, Southern Nuclear Operating Company (SNC) requested from the Nuclear Regulatory Commission (NRC or Commission) an exemption to allow departures from Tier 1 information in the certified Design Control Document (DCD) incorporated by reference in Title 10 of the *Code of Federal Regulations* (10 CFR) part 52, appendix D, ''Design Certification Rule for the AP1000 Design,'' as part of license amendment request (LAR) 21–001, ''Clarification of ITAAC Regarding Invessel Components.''

For the reasons set forth in Section 3.1 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML21237A240, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance would not serve the underlying purpose of the rule or is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified AP1000 DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined License, as described in the licensee's request dated August 24, 2021. This exemption is related to, and necessary for the granting of License Amendment No. 188 [and 186 for Unit 4] which is being issued concurrently with this exemption.

3. As explained in Section 6.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML21237A240), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated August 24, 2021 (ADAMS Accession No. ML21236A305), SNC requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF–91 and NPF–92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on September 3, 2021 (86 FR 49572). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that SNC requested on October 15, 2021. The exemption and amendment were issued on October 15, 2021, as part of a combined package to SNC (ADAMS Accession No. ML21237A205).

Dated: October 28, 2021.

For the Nuclear Regulatory Commission.

Victor E. Hall,

Chief, Vogtle Project Office, Office of Nuclear Reactor Regulation.

[FR Doc. 2021–23942 Filed 11–2–21; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2022–15 and CP2022–16]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 5, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related

to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2022–15 and CP2022–16; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 208 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 28, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* November 5, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–23970 Filed 11–2–21; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93455; File No. SR–CBOE–2021–062]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Operation of Its SPXPM Pilot Program

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 25, 2021, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to extend the operation of its SPXPM pilot program. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 4.13. Series of Index Options

* * * * *

Interpretations and Policies

.01–.12 No change.

.13 In addition to A.M.-settled S&P 500 Stock Index (''SPX'') options approved for trading on the Exchange pursuant to Rule 4.13, the Exchange may also list options on SPX whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (P.M.- settled third Friday-of-the-month SPX options series). The Exchange may also list options on the Mini-SPX Index (''XSP'') and Mini-RUT Index (''MRUT'') whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''P.M.-settled''). P.M.-settled third Friday-of-the-month SPX options series and P.M.-settled XSP and MRUT options will be listed for trading for a pilot period ending [November 1, 2021] *May 2, 2022.*

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 8, 2013, the Securities and Exchange Commission (the ''Commission'') approved a rule change that established a Pilot Program that allows the Exchange to list options on the S&P 500 Index whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''SPXPM'').[5] On July 31,

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013) (SR–CBOE–2012–120) (the ''SPXPM Approval Order''). Pursuant to Securities Exchange Act Release No. 80060 (February 17, 2017), 82 FR 11673 (February 24, 2017) (SR–CBOE–2016–091), the Exchange moved third-Friday P.M.-settled options into the S&P 500 Index options class, and as a result, the trading symbol for P.M.-settled S&P 500 Index options that have standard third Friday-of-the-month expirations changed from ''SPXPM'' to ''SPXW.'' This change went into effect on May 1,

2013, the Commission approved a rule change that amended the Pilot Program to allow the Exchange to list options on the Mini-SPX Index (''XSP'') whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''P.M.-settled XSP'').[6] On February 5, 2021, the Commission approved a rule change that amended the Pilot Program to allow the Exchange to list options on the Mini Russell 2000 Index (''MRUT'' or ''Mini-RUT'') whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''P.M.-settled MRUT'')[7] (together, SPXPM, P.M.-settled XSP, and P.M.-settled MRUT to be referred to herein as the ''Pilot Products'').[8] The Exchange has extended the pilot period numerous times, which, pursuant to Rule 4.13.13, is currently set to expire on the earlier of November 1, 2021 or the date on which the pilot program is approved on a permanent basis.[9] The Exchange hereby proposes to further extend the end date of the pilot period to May 2, 2022.[10]

During the course of the Pilot Program and in support of the extensions of the Pilot Program, the Exchange submits reports to the Commission regarding the Pilot Program that detail the Exchange's experience with the Pilot Program, pursuant to the SPXPM Approval Order,[11] the P.M.-settled XSP Approval Order,[12] and the P.M.-settled MRUT Approval Order.[13] Specifically, the Exchange submits annual Pilot Program reports to the Commission that contain an analysis of volume, open interest, and trading patterns. The analysis examines trading in Pilot Products as well as trading in the securities that comprise the underlying index. Additionally, for series that exceed certain minimum open interest parameters, the annual reports provide analysis of index price volatility and share trading activity. The Exchange also submits periodic interim reports that contain some, but not all, of the information contained in the annual reports. In providing the annual and periodic interim reports (the ''pilot reports'') to the Commission, the Exchange has previously requested confidential treatment of the pilot reports under the Freedom of Information Act (''FOIA'').[14] The pilot reports both contain the following volume and open interest data:

(1) Monthly volume aggregated for all trades;

(2) monthly volume aggregated by expiration date;

(3) monthly volume for each individual series;

(4) month-end open interest aggregated for all series;

(5) month-end open interest for all series aggregated by expiration date; and

(6) month-end open interest for each individual series.

The annual reports also contain (or will contain) the information noted in Items (1) through (6) above for Expiration Friday, A.M.-settled, S&P 500 and RUT index options traded on Cboe Options, as well as the following analysis of trading patterns in the Pilot Products options series in the Pilot Program:

(1) A time series analysis of open interest; and

(2) an analysis of the distribution of trade sizes.

Finally, for series that exceed certain minimum parameters, the annual reports contain the following analysis related to index price changes and underlying share trading volume at the close on Expiration Fridays:

(1) A comparison of index price changes at the close of trading on a given Expiration Friday with comparable price changes from a control sample. The data includes a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by the Cboe Volatility Index (VIX), is provided; and

(2) a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money series. The data includes a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for randomly selecting the component securities, and sample periods are determined by the Exchange and the Commission. In proposing to extend the Pilot Program, the Exchange will continue to abide by the reporting requirements described herein, as well as in the SPXPM Approval Order, the P.M.-settled XSP Approval Order, and the P.M.-settled MRUT Approval Order.[15] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Pilot Program is consistent with the Exchange Act. The Exchange is in the process of making public on its website all data and analyses previously submitted to the Commission under the Pilot Program,[16] and will continue to make public any data and analyses it submits to the Commission under the Pilot Program in the future.

The Exchange proposes the extension of the Pilot Program in order to continue to give the Commission more time to consider the impact of the Pilot Program. To this point, Cboe Options believes that the Pilot Program has been well-received by its Trading Permit Holders and the investing public, and the Exchange would like to continue to provide investors with the ability to trade SPXPM and P.M.-settled XSP and

2017, pursuant to Cboe Options Regulatory Circular RG17–054.

[6] *See* Securities Exchange Act Release No. 70087 (July 31, 2013), 78 FR 47809 (August 6, 2013) (SR–CBOE–2013–055) (the ''P.M.-settled XSP Approval Order'').

[7] *See* Securities Exchange Act Release No. 91067 (February 5, 2021), 86 FR 9108 (SR–2020–CBOE–116) (the ''P.M.-settled MRUT Approval Order'').

[8] For more information on the Pilot Products or the Pilot Program, *see* the SPXPM Approval Order, the P.M.-settled XSP Approval Order, and the P.M.-settled MRUT Approval Order.

[9] *See* Securities Exchange Act Release Nos. 71424 (January 28, 2014), 79 FR 6249 (February 3, 2014) (SR–CBOE–2014–004); 73338 (October 10, 2014), 79 FR 62502 (October 17, 2014) (SR–CBOE–2014–076); 77573 (April 8, 2016), 81 FR 22148 (April 14, 2016) (SR–CBOE–2016–036); 80386 (April 6, 2017), 82 FR 17704 (April 12, 2017) (SR–CBOE–2017–025); 83166 (May 3, 2018), 83 FR 21324 (May 9, 2018) (SR–CBOE–2018–036); 84535 (November 5, 2018), 83 FR 56129 (November 9, 2018) (SR–CBOE–2018–069); 85688 (April 18, 2019), 84 FR 17214 (April 24, 2019) (SR–CBOE–2019–023); 87464 (November 5, 2019), 84 FR 61099 (November 12, 2019) (SR–CBOE–2019–107); 88674 (April 16, 2020), 85 FR 22479 (April 22, 2020) (SR–CBOE–2020–036); 90263 (October 23, 2020), 85 FR 68611 (October 29, 2020) (SR–CBOE–2020–100); *and* 91698 (April 28, 2021) 86 FR 23761 (May 4, 2021) (SR–CBOE–2021–027).

[10] The Exchange notes that it is currently drafting a proposal to make the Pilot Program for SPXPM permanent. The Exchange intends to submit the proposal to make the Pilot Program for SPXPM permanent prior to the proposed May 2, 2022 Pilot Program expiration date. Following the Commission's review and approval of the Exchange's proposal, the Exchange intends to file a similar proposal(s) to make its Pilot Program for the other Pilot Products permanent.

[11] *See supra* note 5.

[12] *See supra* note 6.

[13] *See supra* note 7.

[14] 5 U.S.C. 552.

[15] Pursuant to Securities Exchange Act Release No. 75914 (September 14, 2015), 80 FR 56522 (September 18, 2015) (SR–CBOE–2015–079), the Exchange added SPXPM and P.M.-settled XSP options to the list of products approved for trading during Extended Trading Hours (''ETH''). The Exchange will also include the applicable information regarding SPXPM and P.M.-settled XSP options that trade during ETH in its annual and interim reports.

[16] Available at *https://www.cboe.com/aboutcboe/legal-regulatory/national-market-system-plans/pm-settlement-spxpm-data.*

MRUT options. All terms regarding the trading of the Pilot Products shall continue to operate as described in the SPXPM Approval Order, the P.M.-settled XSP Approval Order, and the P.M.-settled MRUT Approval Order. The Exchange merely proposes herein to extend the term of the Pilot Program to May 2, 2022.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[18] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed extension of the Pilot Program will continue to provide greater opportunities for investors. Further, the Exchange believes that it has not experienced any adverse effects or meaningful regulatory concerns from the operation of the Pilot Program. As such, the Exchange believes that the extension of the Pilot Program does not raise any unique or prohibitive regulatory concerns. Also, the Exchange believes that such trading has not, and will not, adversely impact fair and orderly markets on Expiration Fridays for the underlying stocks comprising the S&P 500 index and RUT index. The extension of the Pilot Program will continue to provide investors with the opportunity to trade the desirable products of SPXPM and P.M.-settled XSP and MRUT, while also providing the Commission further opportunity to observe such trading of the Pilot Products.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the continuation of the Pilot Program will impose any unnecessary or inappropriate burden on intramarket competition because it will continue to apply equally to all Cboe Options market participants, and the Pilot Products will be available to all Cboe Options market participants. The Exchange believes there is sufficient investor interest and demand in the Pilot Program to warrant its extension. The Exchange believes that, for the period that the Pilot Program has been in operation, it has provided investors with desirable products with which to trade. Furthermore, the Exchange believes that it has not experienced any adverse market effects or regulatory concerns with respect to the Pilot Program. The Exchange further does not believe that the proposed extension of the Pilot Program will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only applies to trading on Cboe Options. To the extent that the continued trading of the Pilot Products may make Cboe Options a more attractive marketplace to market participants at other exchanges, such market participants may elect to become Cboe Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21]

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed under Rule 19b–4(f)(6)[22] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[23] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will allow it to extend the Pilot Program prior to its expiration on November 1, 2021, and maintain the status quo, thereby reducing market disruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Pilot Program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Pilot Program. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[22] 17 CFR 240.19b–4(f)(6).

[23] 17 CFR 240.19b–4(f)(6)(iii).

[24] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml)*; or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2021–062 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2021–062. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2021–062 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23930 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93459; File No. SR–CBOE–2021–063]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Renew Its Nonstandard Expirations Pilot Program Until May 2, 2022

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 25, 2021, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to renew an existing pilot program until May 2, 2022. The text of the proposed rule change is provided below.

additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 4.13. Series of Index Options

(a)–(d) No change.

(e) Nonstandard Expirations Pilot Program.

(1–(2) No change.

(3) Duration of Nonstandard Expirations Pilot Program. The Nonstandard Expirations Pilot Program shall be through [November 1, 2021] *May 2, 2022.*

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 14, 2010, the Securities and Exchange Commission (the ''Commission'') approved a Cboe Options proposal to establish a pilot program under which the Exchange is permitted to list P.M.-settled options on broad-based indexes to expire on (a) any Friday of the month, other than the third Friday-of-the-month, and (b) the last trading day of the month.[5] On January 14, 2016, the Commission approved a Cboe Options proposal to expand the pilot program to allow P.M.-settled options on broad-based indexes to expire on any Wednesday of month, other than those that coincide with an EOM.[6] On August 10, 2016, the Commission approved a Cboe Options proposal to expand the pilot program to allow P.M.-settled options on broad-based indexes to expire on any Monday of month, other than those that coincide with an EOM.[7] Under the terms of the Nonstandard Expirations Pilot Program (''Program''), Weekly Expirations and EOMs are permitted on any broad-based index that is eligible for regular options trading. Weekly Expirations and EOMs are cash-settled and have European-style exercise. The proposal became effective on a pilot basis for a period of fourteen months that commenced on the next full month after approval was

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (order approving SR–CBOE–2009–075).

[6] *See* Securities Exchange Act Release 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (order approving SR–CBOE–2015–106).

[7] *See* Securities Exchange Act Release 78531 (August 10, 2016), 81 FR 54643 (August 16, 2016) (order approving SR–CBOE–2016–046).

received to establish the Program [8] and was subsequently extended.[9] Pursuant to Rule 4.13(e)(3), the Program is scheduled to expire on November 1, 2021. The Exchange believes that the Program has been successful and well received by its Trading Permit Holders and the investing public during that the time that it has been in operation. The Exchange hereby proposes to extend the Program until May 2, 2022. This proposal does not request any other changes to the Program.

Pursuant to the order approving the establishment of the Program, two months prior to the conclusion of the pilot period, Cboe Options is required to submit an annual report to the Commission, which addresses the following areas: Analysis of Volume & Open Interest, Monthly Analysis of Weekly Expirations & EOM Trading Patterns and Provisional Analysis of Index Price Volatility. The Exchange has submitted, under separate cover, the annual report in connection with the present proposed rule change. Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Program is consistent with the Exchange Act. The Exchange is in the process of making public on its website all data and analyses previously submitted to the Commission under the Program,[10] and will make public any data and analyses it makes to the Commission under the Program in the future.

If, in the future, the Exchange proposes an additional extension of the Program, or should the Exchange propose to make the Program permanent (which the Exchange currently intends to do), the Exchange will submit an annual report (addressing the same areas referenced above and consistent with the order approving the establishment of the Program) to the Commission at least two months prior to the next bi-annual expiration date of the Program.[11] The Exchange will also make this report public. Any positions established under the Program will not be impacted by the expiration of the Program.

The Exchange believes there is sufficient investor interest and demand in the Program to warrant its extension. The Exchange believes that the Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange has not experienced any adverse market effects with respect to the Program.

The Exchange believes that the proposed extension of the Program will not have an adverse impact on capacity.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [14] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the Program has been successful to date and states that it has not encountered any problems with the Program. The proposed rule change allows for an extension of the Program for the benefit of market participants. Additionally, the Exchange believes that there is demand for the expirations offered under the Program and believes that that Weekly Expirations and EOMs will continue to provide the investing public and other market participants increased opportunities to better manage their risk exposure.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Program, the proposed rule change will allow for further analysis of the Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16]

[8] *Id.*

[9] *See* Securities Exchange Act Release 65741 (November 14, 2011), 76 FR 72016 (November 21, 2011) (immediately effective rule change extending the Program through February 14, 2013). *See also* Securities Exchange Act Release 68933 (February 14, 2013), 78 FR 12374 (February 22, 2013) (immediately effective rule change extending the Program through April 14, 2014); 71836 (April 1, 2014), 79 FR 19139 (April 7, 2014) (immediately effective rule change extending the Program through November 3, 2014); 73422 (October 24, 2014), 79 FR 64640 (October 30, 2014) (immediately effective rule change extending the Program through May 3, 2016); 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (extending the Program through May 3, 2017); 80387 (April 6, 2017), 82 FR 17706 (April 12, 2017) (extending the Program through May 3, 2018); 83165 (May 3, 2018), 83 FR 21316 (May 9, 2018) (SR–CBOE–2018–038) (extending the Program through November 5, 2018); 84534 (November 5, 2019), 83 FR 56119 (November 9, 2018) (SR–CBOE–2018–070) (extending the Program through May 6, 2019); 85650 (April 15, 2019), 84 FR 16552 (April 19, 2019) (SR–CBOE–2019–022) (extending the Program through November 4, 2019); 87462 (November 5, 2019), 84 FR 61108 (November 12, 2019) (SR–CBOE–2019–104) (extending the Program through May 4, 2020); 88673 (April 16, 2020), 85 FR 22507 (April 22, 2020) (SR–CBOE–2020–035) (extending the Program through November 2, 2020); 90262 (October 23, 2020) 85 FR 68616 (October 29, 2020) (SR–CBOE–2020–101); *and* 91697 (April 28, 2021), 86 FR 23775 (May 4, 2021) (SR–CBOE–2021–026) (extending the Program through November 1, 2021).

[10] Available at *https://www.cboe.com/aboutcboe/legal-regulatory/national-market-system-plans/non-standard-expiration-data.*

[11] The Exchange notes that from the Program's implementation in 2010 through 2014, the Program ran on a 14-month basis, and, in 2014, the Program was extended to run on a bi-annual pilot basis. *See* Securities Exchange Act Release No. 71836 (April 1, 2014), 79 FR 19139 (April 7, 2014) (SR–CBOE–2014–027). The Program continues to run on a bi-annual basis today.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *Id.*

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will allow it to extend the Program prior to its expiration on November 1, 2021, and maintain the status quo, thereby reducing market disruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Program. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2021–063 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2021–063. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2021–063 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23931 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93443; File No. SR–ICEEU–2021–019]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the ICE Clear Europe Delivery Procedures

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 15, 2021, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(4) thereunder,[4] such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

(a) The principal purpose of the proposed amendments is for ICE Clear Europe to amend its amend Part GG of its Delivery Procedures to update certain documentation, timing and other requirements relating the delivery under ICE Futures Abu Dhabi Murban Crude Oil Futures Contracts (''Murban Crude Oil Futures Contracts'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICE Clear Europe is proposing to amend Part GG of its Delivery Procedures to clarify certain delivery specifications relating to Murban Crude Oil Futures Contracts. The proposed changes are intended to reflect, and be consistent with, the relevant contract terms under ICE Futures Abu Dhabi rules (and certain amendments being made thereto). Specifically, as described in detail below, the proposed amendments would be made to the following sections: (i) The delivery timetable in paragraph 3, (ii) the delivery vessel nomination table in paragraph 4, and (iii) the delivery documentation summary in paragraph 5. Other non-substantive typographical and similar corrections would also be made.

Delivery Timetable

The process for Delivery Range Determinations would be amended to provide a procedure in which a Buyer may request a change to the agreed Delivery Range, subject to the approval of the Clearing House and the Terminal Operator in their discretion by a specified time in advance of the original and modified Delivery Ranges. Additionally, the changes would clarify that the Terminal Operator may agree with the Buyer to the early loading of Murban Crude Oil into the Buyer's Vessel provided that any such early loading would not take place earlier than the first Terminal Loading Day of the delivery month (in addition to the existing requirement that early loading not take place earlier than 48 hours prior to the first day of the agreed Delivery Range).

The proposed amendments would also provide that on the Document Receipt Day, if the Seller is unable to provide the Clearing House (with copy to the Buyer) by the required delivery time with certain specified documentation, it would be required to provide a Letter of Indemnity in favor of the Buyer and the Buyer would be required to make payment against the Letter of Indemnity (instead of the Letter of Indemnity being required only if the Buyer elected to make payment against it). Further detail would be added regarding the Buyer's ability to request that any such Letter of Indemnity be countersigned by the Seller's bank, including providing a deadline by which the request must be made. The request would also need to specify the reasons for such request and may not be based on frivolous or vexatious reasons. If no notification is received by the deadline, the Buyer would be deemed to have agreed to make payment to the Clearing House against the Letter of Indemnity regardless of whether it was countersigned by a bank.

Further, the proposed amendments would provide that in the event that the Buyer submits a valid request, the Seller would be required to have the Letter of Indemnity countersigned by a bank with a credit rating equal or greater than the minimum credit rating score as advised by ICE Futures Abu Dhabi, unless the Buyer agrees to an alternative bank and notifies the Clearing House by a specified deadline.

Delivery Vessel Nomination Table

The delivery vessel nomination table would be updated to provide that nominations must be received on the fifth calendar day prior to the first day of the Delivery Range (instead of the sixth calendar day prior), consistent with the exchange rules.

Delivery Documentation Summary

With respect to the Delivery Confirmation Form, the proposed amendments would remove as unnecessary a requirement that such form include the tender(s) against which it is given. Conforming formatting updates would also be made.

With respect to the Delivery Range Nomination Form, the proposed amendments would add that the Buyer's unique reference would be required to be included in such form. Conforming formatting updates would also be made.

With respect to the Vessel Nomination Form, the proposed amendments would add that documentary instructions (for example, a bill of lading mark-up) would be required to be included in such form. Conforming formatting updates would also be made.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act [5] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest. The proposed changes to Part GG of the Delivery Procedures are designed to clarify delivery procedures relating to Murban Crude Oil Futures Contracts and ensure consistency with relevant exchange rules (including amendments thereto). The amendments to Part GG would clarify and provide further detail with the determination of delivery ranges, indemnity requirements and certain other aspects as to the timing and documentation required for delivery. The amendments do not otherwise change the terms and conditions of Murban Crude Oil Futures Contracts, and the contracts will continue to be cleared by ICE Clear Europe in the same manner as they are currently. In ICE Clear Europe's view, the amendments are thus consistent with the prompt and accurate clearance and settlement of cleared contracts and the protection of investors and the public interest. (ICE Clear Europe would not expect the amendments to affect the safeguarding of securities and funds in ICE Clear Europe's custody or control or for which it is responsible). Accordingly, the amendments satisfy the requirements of Section 17A(b)(3)(F).[6]

In addition, Rule 17Ad–22(e)(10) [7] requires that each covered clearing agency ''establish and maintain transparent written standards that state its obligations with respect to the delivery of physical instruments, and establish and maintain operational practices that identify, monitor and manage the risks associated with such physical deliveries.'' As discussed above, the amendments would clarify certain delivery specifications for Murban Crude Oil Futures Contracts relating to the determination of delivery ranges, certain indemnity requirements, and certain other documentation and timing matters, consistent with the requirements of the exchange. The amendments would not otherwise change the manner in which the contracts are cleared or in which delivery is made, as supported by ICE Clear Europe's existing financial resources, risk management, systems and operational arrangements. The amendments thus appropriately clarify the role and responsibilities of the Clearing House and Clearing Members with respect to physical delivery. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Rule 17Ad–22(e)(10).[8]

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 240.17Ad–22(e)(10).

[8] 17 CFR 240.17Ad–22(e)(10).

impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments are being adopted to update and clarify the delivery specifications in Part GG of the Delivery Procedures in connection with Murban Crude Oil Futures Contracts, and will not otherwise affect the contract. ICE Clear Europe does not expect that the proposed changes will adversely affect access to clearing or the ability of Clearing Members, their customers or other market participants to continue to clear contracts. ICE Clear Europe also does not believe the amendments would materially affect the cost of clearing or otherwise impact competition among Clearing Members or other market participants or limit market participants' choices for selecting clearing services. Accordingly, ICE Clear Europe does not believe the amendments would impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and paragraph (f) of Rule 19b–4 [10] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or

Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2021–019 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2021–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2021–019 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23919 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93453; File No. SR–CboeEDGX–2021–047]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 25, 2021, Cboe EDGX Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') proposes to extend the pilot programs in connection with the listing and trading of P.M.-settled series on certain broad-based index options. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change extends the listing and trading of P.M.-settled series on certain broad-based index options on a pilot basis.[5] Rule 29.11(a)(6) currently permits the listing and trading of XSP options with third-Friday-of-the-month expiration dates, whose exercise settlement value will be based on the closing index value on the expiration day (''P.M.-settled'') on a pilot basis set to expire on November 1, 2021 (the ''XSPPM Pilot Program''). Rule 29.11(j)(3) also permits the listing and trading of P.M.-settled options on broad-based indexes with weekly expirations (''Weeklys'') and end-of-month expirations (''EOMs'') on a pilot basis set to expire on November 1, 2021 (the ''Nonstandard Expirations Pilot Program'', and together with the XSPPM Pilot Program, the ''Pilot Programs''). The Exchange proposes to extend the Pilot Programs through May 2, 2022.

XSPPM Pilot Program

Rule 29.11(a)(6) permits the listing and trading, in addition to A.M.-settled XSP options, of P.M.-settled XSP options with third-Friday-of-the-month expiration dates on a pilot basis. The Exchange believes that continuing to permit the trading of XSP options on a P.M.-settled basis will continue to encourage greater trading in XSP options. Other than settlement and closing time on the last trading day (pursuant to Rule 29.10(a)),[6] contract terms for P.M.-settled XSP options are the same as the A.M.-settled XSP options. The contract uses a $100 multiplier and the minimum trading increments, strike price intervals, and expirations are the same as the A.M.-settled XSP option series. P.M.-settled XSP options have European-style exercise. The Exchange also has flexibility to open for trading additional series in response to customer demand.

If the Exchange were to propose another extension of the XSPPM Pilot Program or should the Exchange propose to make the XSPPM Pilot Program permanent, the Exchange would submit a filing proposing such amendments to the XSPPM Pilot Program. Further, any positions established under the XSPPM Pilot Program would not be impacted by the expiration of the XSPPM Pilot Program. For example, if the Exchange lists a P.M.-settled XSP option that expires after the XSPPM Pilot Program expires (and is not extended), then those positions would continue to exist. If the pilot were not extended, then the positions could continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

As part of the XSPPM Pilot Program, the Exchange submits a pilot report to the Commission at least two months prior to the expiration date of the pilot.[7] This annual report contains an analysis of volume, open interest, and trading patterns. In proposing to extend the XSPPM Pilot Program, the Exchange will continue to abide by the reporting requirements described in the Notice.[8] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the XSPPM Pilot Program is consistent with the Exchange Act. The Exchange is in the process of making public on its website data and analyses previously submitted to the Commission under the Pilot Program, and will make public any data and analyses it submits to the Commission under the Pilot Program in the future. The Exchange also notes that its affiliated options exchange, Cboe Exchange, Inc. (''Cboe Options'') currently has pilots that permit P.M.-settled third Friday-of-the-month XSP options.[9]

Nonstandard Expirations Pilot Program

Rule 29.11(j)(1) permits the listing and trading, on a pilot basis, of P.M.-settled options on broad-based indexes with nonstandard expiration dates and is currently set to expire on November 1, 2021. The Nonstandard Expirations Pilot Program permits both Weeklys and EOMs as discussed below. Contract terms for the Weekly and EOM expirations are similar to those of the A.M.-settled broad-based index options, except that the Weekly and EOM expirations are P.M.-settled.

In particular, Rule 29.11(j)(1) permits the Exchange to open for trading Weeklys on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM). Weeklys are subject to all provisions of Rule 29.11 and are treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, under the Nonstandard Expirations Pilot Program, Weeklys are P.M.-settled, and new Weekly series may be added up to and including on the expiration date for an expiring Weekly.

Rule 29.11(a)(2) permits the Exchange to open for trading EOMs on any broad-based index eligible for standard options trading to expire on the last trading day of the month. EOMs are subject to all provisions of Rule 29.11 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, under the

[5] The Exchange is authorized to list for trading options that overlie the Mini-SPX Index (''XSP'') and the Russell 2000 Index (''RUT''). *See* Rule 29.11(a). *See also* Securities Exchange Act Release Nos. 84481 (October 24, 2018), 83 FR 54624 (October 30, 2018) (Notice of Filing of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options on a Pilot Basis) (SR–CboeEDGX–2018–037) (''Notice''); 85182 (February 22, 2019), 84 FR 6846 (February 28, 2019) (Notice of Deemed Approval of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options on a Pilot Basis) (SR–CboeEDGX–2018–037); 88054 (January 27, 2020), 85 FR 5761 (January 31, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeEDGX–2020–002); 88787 (April 30, 2020), 85 FR 26995 (May 6, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeEDGX–2020–019); 90253 (October 22, 2020) 85 FR 68390 (October 28, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeEDGX–2020–050); *and* 91700 (April 28, 2021), 86 FR 23770 (May 4, 2021) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeEDGX–2021–022).

[6] Rule 29.10(a) permits transactions in P.M.-settled XSP options on their last trading day to be effected on the Exchange between the hours of 9:30 a.m. and 4:00 p.m. Eastern time. All other transactions in index options are effected on the Exchange between the hours of 9:30 a.m. and 4:15 p.m. Eastern time.

[7] The Exchange notes that the Pilot Programs currently run on a bi-annual pilot basis.

[8] *See supra* note 5.

[9] *See* Cboe Options Rule 4.13.13, which also permits P.M.-settled third Friday-of-the-month SPX options on a pilot basis (''SPXPM Pilot Program''). The Exchange notes that, prior to the proposed May 2, 2022 Pilot Programs expiration date, Cboe Options intends to submit a proposal to make its SPXPM Pilot Program permanent. Following the Commission's review and approval of Cboe Options' proposal, the Exchange intends to file a similar proposal to make its XSPPM Pilot Program permanent.

Nonstandard Expirations Pilot Program, EOMs are P.M.-settled, and new series of EOMs may be added up to and including on the expiration date for an expiring EOM.

As stated above, this proposed rule change extends the Nonstandard Expirations Pilot Program for broad-based index options on a pilot basis, for a period of six months. If the Exchange were to propose an additional extension of the Nonstandard Expirations Pilot Program or should the Exchange propose to make it permanent, the Exchange would submit additional filings proposing such amendments. Further, any positions established under the Nonstandard Expirations Pilot Program would not be impacted by the expiration of the pilot. For example, if the Exchange lists a Weekly or EOM that expires after the Nonstandard Expirations Pilot Program expires (and is not extended), then those positions would continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

As part of the Nonstandard Expirations Pilot Program, the Exchange submits a pilot report to the Commission at least two months prior to the expiration date of the pilot.[10] This annual report contains an analysis of volume, open interest, and trading patterns. In proposing to extend the Nonstandard Expirations Pilot Program, the Exchange will continue to abide by the reporting requirements described in the Notice.[11] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Nonstandard Expirations Pilot Program is consistent with the Exchange Act. The Exchange makes its annual data and analyses previously submitted to the Commission under the Pilot Program public on its website and will continue to make public any data and analyses it submits to the Commission under the Pilot Program in the future. The Exchange notes that other exchanges, including its affiliated exchange, Cboe Options, currently have pilots that have weekly and end-of-month expirations.[12]

Additional Information

The Exchange believes there is sufficient investor interest and demand in the XSPPM and Nonstandard Expirations Pilot Programs to warrant their extension. The Exchange believes that the Programs have provided investors with additional means of managing their risk exposures and carrying out their investment objectives. The proposed extensions will continue to offer investors the benefit of added transparency, price discovery, and stability, as well as the continued expanded trading opportunities in connection with different expiration times. The Exchange proposes the extension of the Pilot Programs in order to continue to give the Commission more time to consider the impact of the Pilot Programs. To this point, the Exchange believes that the Pilot Programs have been well-received by its Members and the investing public, and the Exchange would like to continue to provide investors with the ability to trade P.M.-settled XSP options and contracts with nonstandard expirations. All terms regarding the trading of the Pilot Products shall continue to operate as described in the XSPPM and Nonstandard Expirations Notice.[13] The Exchange merely proposes herein to extend the terms of the Pilot Programs to May 2, 2022.

Furthermore, the Exchange has not experienced any adverse market effects with respect to the Programs. The Exchange will continue to monitor for any such disruptions or the development of any factors that would cause such disruptions. The Exchange represents it continues to have an adequate surveillance program in place for index options and that the proposed extension will not have an adverse impact on capacity.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes that the proposed extension of the Pilot Programs will continue to provide greater opportunities for investors. The Exchange believes that the Pilot Programs have been successful to date. The proposed rule change allows for an extension of the Program for the benefit of market participants. The Exchange believes that there is demand for the expirations offered under the Program and believes that P.M.-settled XSP, Weekly Expirations and EOMs will continue to provide the investing public and other market participants with the opportunities to trade desirable products and to better manage their risk exposure. The proposed extension will also provide the Commission further opportunity to observe such trading of the Pilot Products. Further, the Exchange has not encountered any problems with the Programs; it has not experienced any adverse effects or meaningful regulatory or capacity concerns from the operation of the Pilot Programs. Also, the Exchange believes that such trading pursuant to the XSPPM Pilot Program has not, and will not, adversely impact fair and orderly markets on Expiration Fridays for the underlying stocks comprising the S&P 500 index.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Programs, the proposed rule change will allow for further analysis of the Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

Specifically, the Exchange does not believe the continuation of the Pilot Program will impose any unnecessary or inappropriate burden on intramarket competition because it will continue to apply equally to all EDGX Options market participants, and the Pilot Products will continue to be available to all EDGX Options market participants. The Exchange believes there is sufficient investor interest and demand in the Pilot Programs to warrant its extension. The Exchange believes that, for the period that the Pilot Programs

[10] *See supra* note 7.

[11] *See supra* note 5.

[12] *See* Cboe Options Rule 4.13(e); and Phlx Rule 1101A(b)(5).

[13] *See supra* note 5.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

has been in operation, it has provided investors with desirable products with which to trade. Furthermore, as stated above, the Exchange maintains that it has not experienced any adverse market effects or regulatory concerns with respect to the Pilot Programs. The Exchange further does not believe that the proposed extension of the Pilot Programs will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only applies to trading on EDGX Options. To the extent that the continued trading of the Pilot Products may make EDGX Options a more attractive marketplace to market participants at other exchanges, such market participants may elect to become EDGX Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will allow it to extend the Pilot Programs prior to their expiration on November 1, 2021, and maintain the status quo, thereby reducing market disruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Pilot Programs to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Pilot Programs. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2021–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2021–047. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2021–047 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23928 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93461; File No. SR–MIAX–2021–55]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange, LLC To Amend Exchange Rule 501, Days and Hours of Business To Make Juneteenth National Independence Day a Holiday of the Exchange

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 2021, Miami International Securities Exchange, LLC (''MIAX Options'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 501, Days and Hours of Business, Interpretation and Policy .02, to make Juneteenth National Independence Day a holiday of the Exchange. Juneteenth National Independence Day was designated a legal public holiday in June 2021.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 501, Days and Hours of Business, Interpretation and Policy .02, to make Juneteenth National Independence Day a holiday of the Exchange. On June 17, 2021, Juneteenth National Independence Day was designated a legal public holiday.[3] Consistent with broad industry sentiment [4] and the approach recommended by the Securities Industry and Financial Markets Association (''SIFMA''),[5] the Exchange proposes to add ''Juneteenth National Independence Day'' to the existing list of holidays in Exchange Rule 501, Interpretation and Policy .02. As a result, the Exchange will not be open for business on Juneteenth National Independence Day, which falls on June 19 of each year. In accordance with Exchange Rule 501, Interpretation and Policy .02, when the holiday falls on a Saturday, the Exchange will not be open for business on the preceding Friday, and when it falls on a Sunday, the Exchange will not be open for business on the succeeding Monday.[6]

The first sentence of Interpretation and Policy .02 would read as follows (proposed additions italicized):

The Board of Directors has determined that the Exchange will not be open for business on New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Good Friday, Memorial Day, *Juneteenth National Independence Day,* Independence Day, Labor Day, Thanksgiving Day or Christmas Day.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [7] in general, and furthers the objectives of Section 6(b)(5) of the Act [8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed change promotes just and equitable principles of trade and removes impediment to and perfects the mechanism of a free and open market and a national market system because the proposed rule change would clearly state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 fell on a Saturday or Sunday. The change would thereby promote clarity and transparency in the Exchange's Rules by updating the list of holidays of the Exchange. The proposed rule change was based on recent proposals by NYSE Arca, Inc., New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc.[9] Therefore, the proposed change does not raise any new or novel issues. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather to amend the Exchange Rule regarding days and hours of business.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant

[3] Public Law 117–17.

[4] *See, e.g., https://www.bloomberg.com/news/articles/2021-06-18/bofa-makes-juneteenth-a-holiday-joining-jpmorgan-wells-fargo?sref=HhuelscO.*

[5] SIFMA recommends a full market close in observance of Juneteenth National Independence Day. *See https://www.sifma.org/resources/general/holiday-schedule/. See* also *https://www.sifma.org/resources/news/sifma-revises-2022-fixed-income-market-close-recommendations-in-the-u-s-to-include-full-close-for-juneteenth-national-independence-day/.*

[6] Exchange Rule 501. There is an exception to the practice if unusual business conditions exist. *Id.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Securities Exchange Act Release Nos. 93186 (September 30, 2021), 86 FR 55041 (October 5, 2021) (SR–NYSEArca–2021–85); 93183 (September 30, 2021), 86 FR 55068 (October 5, 2021)(SR–NYSE–2021–56); 93187 (September 30, 2021), 86 FR 55069 (October 5, 2021)(SR–NYSEAmer–2021–39); 93182 (September 30, 2021), 86 FR 55083 (October 5, 2021) (SR–NYSECHX–2021–13); 93179 [sic] (September 30, 2021), 86 FR 55033 (October 5, 2021) (SR–NYSENAT–2021–18).

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative prior to 30 days after the date of the filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because the proposed rule change, as described above, would state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 fell on a Saturday or Sunday. The Exchange further states that the proposed change does not raise any new or novel issues. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2021–55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2021–55. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2021–55, and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23933 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93450; File No. SR–NYSEArca–2021–92]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reformat the Tier Rates Section of the NYSE Arca Equities Fees and Charges

October 28, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 25, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reformat the Tier rates section of the NYSE Arca Equities Fees and Charges (''Fee Schedule'') applicable to securities priced at or above $1.00 and the rates applicable to securities priced below $1.00 without making any substantive changes to the current fees and credits for each group of securities. The Exchange proposes to implement the proposed rule change effective immediately. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reformat the Tier rates section of the Fee Schedule applicable to securities priced at or above $1.00 and the rates applicable to securities priced below $1.00 without making any substantive changes to the current fees and credits for each group of securities. The Exchange proposes to implement the proposed rule change effective immediately.[4]

The Exchange proposes the following non-substantive changes to reorganize the presentation of the Fee Schedule in order to enhance its clarity and transparency, thereby making the Fee Schedule easier to navigate.

In connection with the proposed rule change, the Exchange would add adopt two new definitions that would apply only for purposes of the fees and credits on the Fee Schedule. The new definitions would be added to current section I titled ''Definitions''. As proposed, section I would contain the following two new definitions applicable to Exchange Transactions:

- ''ETP Holders'' would mean ETP Holders and Market Makers.
- ''TCADV'' would mean total Customer equity and ETF option ADV as reported by The Options Clearing Corporation (OCC).

The Exchange proposes these additional definitions to use consistent terms throughout the Fee Schedule relating to Exchange Transactions. By consolidating definitions used in this part of the Fee Schedule, the Exchange would eliminate the need to separately define these terms within the tables of the Fee Schedule or in footnotes.

Additionally, the Exchange proposes to streamline 3 definitions in current Section I. Specifically, the Exchange proposes to streamline the current defined term ''US CADV'' by removing reference to ''US'' [5] and adding an additional sentence to the current definition to reflect that when CADV is preceded by reference to a specific consolidated tape, *i.e.,* Tape A, B or C, or by reference to Sub-Dollar, then CADV would refer to consolidated average daily volume of transactions reported to a SIP for all securities in that Tape or to all Sub-Dollar securities. As proposed, the revised definition of ''CADV'' would be as follows:

- ''CADV'' would mean ''unless otherwise stated, the United States consolidated average daily volume of transactions reported to a securities information processor (''SIP''). Transactions that are not reported to a SIP are not included in the CADV. If CADV is preceded by a reference to a Tape or to Sub-Dollar, then CADV would refer to all consolidated average daily volume of transactions reported to a SIP for all securities in that Tape or to all Sub-Dollar securities.''

Additionally, the Exchange proposes to streamline the current defined terms ''Adding Liquidity'' and ''Removing Liquidity'' by deleting the word ''Liquidity'' from both defined terms. The Exchange believes reference to liquidity is superfluous and market participants understand that ''Adding'' and ''Removing'' refers to adding liquidity and removing liquidity.[6]

Next, the Exchange proposes to add one additional bullet in current section II titled ''General'' that would set forth general information regarding the way the Exchange has always interpreted and applied fees and credits to Exchange Transactions. As proposed, section II would contain the following new general information applicable to Exchange Transactions:

- Tape A, Tape B and Tape C refers to securities executions reported to the Consolidated Tape A, Consolidated Tape B, and Consolidated Tape C, respectively.

Additionally, under section II, an existing bullet states that ''All fees and credits and tier requirements apply to ETP Holders and Market Makers.'' With the proposed adoption of ''ETP Holders'' as a new definition that includes Market Makers, the Exchange proposes to delete the words ''and Market Makers'' from the existing bullet under current section II.

Next, the Exchange proposes a non-substantive change to the presentation of the Tier rates applicable to securities priced at or above $1.00. The Exchange proposes a table presentation under current section VI titled Tier Rates—Round Lots and Odd Lots (Per Share Price $1.00 or Above). The proposed changes to section VI would appear in the Fee Schedule in a number of tables. First, the Exchange proposes to reformat the current Tier 1, Tier 2 [7] and Tier 3 requirements and rates in a table titled ''Adding Tiers'' which would appear on the Fee Schedule as follows:

[4] The Exchange filed to amend the Fee Schedule on September 30, 2021 (SR–NYSEArca–2021–83). SR–NYSEArca–2021–83 was subsequently withdrawn and replaced by SR–NYSEArca–2021–88. SR–NYSEArca–2021–88 was subsequently withdrawn and replaced by this filing.

[5] With the proposal to rename ''US CADV'' to ''CADV'', in order to maintain consistency within the Fee Schedule, the Exchange proposes to remove reference to ''US'' from the second sentence of the current definition and from the current table titled Tape C Tiers for Adding Liquidity in Section VI on the Fee Schedule.

[6] In connection with this change, the Exchange also proposes to delete the word ''Liquidity'' in the current table titled Tape C Tiers for Adding Liquidity in Section VI on the Fee Schedule. As proposed, the revised title would say Tape C Tiers for Adding. The Exchange similarly proposes to delete the word ''Liquidity'' from the column in this table titled Minimum Criteria for Tape C Adding Liquidity. As proposed, the revised column would say Minimum Criteria for Tape C Adding.

[7] In connection with this change, the Exchange propose to no longer reference the exclusion of mini options in the calculation of the minimum requirement to qualify for Tier 2 because mini options no longer trade on NYSE Arca Options.

ADDING TIERS

Tier	Minimum requirement		Credit for adding		
			Tape A	Tape B [(a)]	Tape C
Tier 1	0.70% Adding of CADV, or ..	84 million shares Adding ADV.	($0.0031)	($0.0023)	($0.0032)
Tier 2	0.30% Adding of CADV, or ..	0.25% Adding CADV, 0.40% Tape B Remove of Tape B CADV, and 0.25% Customer and Professional Customer Electronic Posting Volume of TCADV on NYSE Arca Options by OTP Holder or OTP Firm affiliated with the ETP Holder.	(0.0029)	(0.0022)	(0.0029)
Tier 3	0.20% Adding of CADV.		* (0.0025)	(0.0022)	* (0.0025)
ETP Holders that qualify for Tier 1, Tier 2 or Tier 3 are subject to the following fees:					
Routing	$0.0030				
Removing in Tape B	0.0029				
Closing Orders	0.0010				

* ETP Holders that qualify for Tier 3 and add 0.05% of CADV above May 2019 receive an incremental credit of ($0.0002) for Tape A and C Adding.

The Exchange notes that each of the requirements and rates that currently appear on the Fee Schedule under Tier 1, Tier 2 and Tier 3 have been relocated in the table proposed above and in proposed footnote (a). The Exchange proposes to relocate certain rates in footnotes because these rates do not have a logical place in the proposed table. The proposed footnote under the proposed new ''Adding Tiers'' table would be as follows:

[(a)] An additional credit in Tape B shall apply to ETP Holders affiliated with LMMs that add [8] displayed liquidity based on the number of Less Active ETP Securities in which the LMM is registered as the LMM. The applicable tiered-credits are noted below (See LMM Transaction Fees and Credits).

Next, the Exchange proposes to reformat the current Step Up Tier,[9] Step Up Tier 2 and Step Up Tier 3 [10] requirements and rates in a table titled ''Step Up Tiers'' which would appear on the Fee Schedule as follows:

STEP UP TIERS

Tier	Minimum requirement			Credit for adding displayed liquidity		
	Adding ADV of CADV (%)	Adding increase of CADV(%)	Adding increase baseline	Tape A	Tape B	Tape C
Step Up Tier 1	0.45	0.10	Q1 2018	($0.0030)	($0.0023)	($0.0031)
Step Up Tier 2	0.22	0.06	May 2018	(0.0028)	(0.0022)	(0.0028)
Step Up Tier 3 [(b)]		0.40	September 2019	(0.0033)	(0.0034)	(0.0033)

The Exchange notes that each of the requirements and rates that currently appear on the Fee Schedule under Step Up Tier, Step Up Tier 2 and Step Up Tier 3 have been relocated in the table proposed above and in proposed footnote (b). The Exchange proposes to relocate certain rates in footnotes because these rates do not have a logical place in the proposed table. The proposed footnote under the proposed new ''Step Up Tiers'' table would be as follows:

[(b)] ETP Holders that qualify for Step Up Tier 3 shall not receive additional Tape B Tier credits for adding displayed liquidity, including any additional credits associated with Less Active ETP Securities, however, ETP Holders that are registered as a LMM may receive up to a combined credit of $0.0036 per share on all its adding volume if that ETP Holder, together with its affiliates, executes Tape B adding ADV that is at least 40% over the ETP Holder's adding ADV in Q3 2019, as a percentage of Tape B CADV.

Next, the Exchange proposes to reformat the current Cross-Asset Tier requirements and credits in a table titled ''Cross-Asset Tier'' which would appear on the Fee Schedule as follows:

[8] The Exchange proposes to use the terms ''add'', ''added'' or ''adding'' instead of ''provide'', ''provided'' or ''providing'' to maintain consistency throughout the Fee Schedule.

[9] With this proposed rule change, the Exchange proposes to rename current Step Up Tier as Step Up Tier 1.

[10] Under current Step Up Tier, to qualify for the tier, ETP Holders are required to provide Adding ADV of 0.45% or more of CADV but less than 0.70% of CADV. For Step Up Tier 2, ETP Holders are required to provide Adding ADV of 0.22% or more but less than 0.30% of CADV. In the proposed Step Up Tiers table, for each of these tiers, the Exchange proposes to only adopt the minimum requirement of 0.45% and 0.22% for Step Up Tier 1 and Step Up Tier 2, respectively, because, as a practical matter, once an ETP Holder reaches the minimum requirement, the ETP Holder would qualify for the tier regardless of the amount of additional Adding ADV volume.

CROSS-ASSET TIER

Minimum requirement			Credit for adding		
Equity volume	Option customer and professional customer electronic posting volume of TCADV by OTP holder or OTP firm affiliated with the ETP holder		Tape A	Tape B	Tape C
	All Issues	Non-penny issues			
0.30% Adding of CADV	0.80% of TCADV	0.20% of TCADV	($0.0030)	($0.0030)	($0.0030).
0.30% Adding of CADV and 0.35% Adding of Tape C CADV.	0.80% of TCADV	0.20% of TCADV	n/a	n/a	Additional ($0.0004).
0.65% Adding of CADV	0.80% of TCADV	0.20% of TCADV	Additional ($0.0002)	Additional ($0.0002)	n/a.
0.30% Adding of CADV and 0.40% Adding and Removing of CADV above Q1 2020 Add and Remove.	0.80% of TCADV	0.20% of TCADV	Additional ($0.0001) for Adding, All Tapes.		

The Exchange notes that each of the requirements and credits that currently appear on the Fee Schedule under Cross-Asset Tier have been relocated in the table proposed above.

Next, the Exchange proposes to reformat the current MPID Adding Tier requirements and credits in a table titled ''MPID Adding Tier'' which would appear on the Fee Schedule as follows:

MPID ADDING TIER

Tier	Minimum requirement by MPID		Credit for MPIDs adding		
	Adding increase of CADV over Q2 2021, as a percentage of CADV	Adding ADV (million)	Tape A	Tape B	Tape C
MPID Adding Tier	2 Times	4	($0.0028)	n/a	($0.0028)
	2 Times	9	(0.0029)	n/a	(0.0029)

The Exchange notes that each of the requirements and rates that currently appear on the Fee Schedule under MPID Adding Tier have been relocated in the table proposed above.

Next, the Exchange proposes to reformat the current BBO Setter Tier requirements and credits in a table titled ''BBO Setter Tier'' which would appear on the Fee Schedule as follows:

BBO SETTER TIER

Tier	Minimum requirement				Credit for orders that set a new BBO [(c)]		
	Adding ADV of CADV	ETP ID adding ADV of CADV	ETP ID setting the Arca best bid or offer of CADV	ETP ID setting the Arca best bid or offer as percent of ETP ID adding ADV	Tape A	Tape B	Tape C
BBO Setter Tier	0.70%	0.20%	0.10%	40%	($0.0004)	($0.0002)	($0.0004)

The Exchange notes that each of the requirements and rates that currently appear on the Fee Schedule under the BBO Setter Tier have been relocated in the table proposed above and in proposed footnote (c). The Exchange proposes to relocate certain rates in footnotes because these rates do not have a logical place in the proposed table. The proposed footnote under the proposed new ''BBO Setter Tier'' table would be as follows:

[(c)] This credit shall be in addition to the ETP Holder's Tiered or Standard Rate credit(s), and for Tape B and Tape C, the credit shall be in addition to any capped credit.

Next, the Exchange proposes to reformat the current Retail Order Tier, Retail Order Step-Up Tier 1, Retail Order Step-Up Tier 2 and Retail Order Step-Up Tier 3 requirements and rates in a table titled ''Retail Tiers'' which would appear on the Fee Schedule as follows:

RETAIL TIERS

Tier	Minimum requirement of CADV			Rates for retail orders	
	Retail adding ADV (%)	Retail orders with a time-in-force of day that add and remove that is an increase over April 2018 (%)	Adding ADV (%)	Credit for retail adding	Fee for retail removing with a time-in-force of day
Retail Order Tier	0.15			($0.0033)	
Retail Order Step-Up Tier 1 [d] [e]		0.40	1.00	[f] (0.0038)	No Fee.
Retail Order Step-Up Tier 2 [e]		0.10		[f] (0.0035)	No Fee.
Retail Order Step-Up Tier 3 [e]		0.20		[f] (0.0036)	No Fee.

The Exchange notes that each of the requirements and rates that currently appear on the Fee Schedule under the Retail Order Tier, Retail Order Step-Up Tier 1, Retail Order Step-Up Tier 2 and Retail Order Step-Up Tier 3 have been relocated in the table proposed above and in proposed footnotes (d) through (f). The Exchange proposes to relocate certain rates in footnotes because these rates do not have a logical place in the proposed table. The proposed footnotes under the proposed new ''Retail Tiers'' table would be as follows:

[d] ETP Holders that qualify for Retail Order Step-Up Tier 1 are subject to the following rates in Tape C:

- ($0.0035) for Adding displayed liquidity.
- $0.0027 for Removing.
- Additional ($0.0002) for Adding non-displayed liquidity.

[e] ETP Holders that qualify for Retail Order Step-Up Tier 1, Retail Order Step-Up Tier 2 and Retail Order Step-Up Tier 3 are subject to the following rates:

- No fee charged or credit paid for Retail Orders where each side of the executed order (1) shares the same MPID and (2) is a Retail Order with a time-in-force of Day.

[f] This credit applies for Adding displayed liquidity.

Next, the Exchange proposes to reformat the current MPL Orders Tier, MPL Orders Step Up Tier 1 and MPL Orders Step Up Tier 2 requirements and credits in a table titled ''MPL Orders Tiers'' which would appear on the Fee Schedule as follows:

MPL ORDER TIERS

Tier	Minimum requirement		Credit for MPL adding	
	MPL adding ADV	MPL adding ADV increase over May 2019	Tape A	Tape B and Tape C
MPL Orders	3.0 Million		($0.0015)	($0.0020)
	1.5 Million		(0.0015)	(0.0015)
MPL Orders Step Up Tier 1		2 Million	(0.0026)	(0.0026)
MPL Orders Step Up Tier 2		1 Million	(0.0025)	(0.0025)

The Exchange notes that each of the requirements and credits that currently appear on the Fee Schedule under MPL Orders Tier, MPL Orders Step Up Tier 1 and MPL Orders Step Up Tier 2 have been relocated in the table proposed above.

Next, the Exchange proposes to reformat the current Limit Non-Displayed Step Up Tier requirements and credits in a table titled ''Limit Non-Displayed Step Up Tier'' which would appear on the Fee Schedule as follows:

LIMIT NON-DISPLAY STEP UP TIER

Tier	Minimum CADV requirement	Credit for limit non-displayed orders adding
	Limit-non-display and MPL order combined ADV increase over July 2020 (%)	All tapes
Limit Non-Display Order Step Up Tier	0.02	($0.0004)
	0.05	(0.0010)
	0.10	(0.0015)
	0.15	(0.0020)

The Exchange notes that each of the requirements and credits that currently appear on the Fee Schedule under Limit Non-Displayed Step Up Tier have been relocated in the table proposed above.

Next, the Exchange proposes to reformat the current Tracking Order Tier 1 requirement and credit in a table titled

''Tracking Order Tier'' which would appear on the Fee Schedule as follows:

TRACKING ORDER TIER

Tier	Minimum ADV requirement	Credit for tracking orders that result in executions
Tracking Order Tier 1	1 Million	($0.0010)

The Exchange notes that the requirement and credit that currently appears on the Fee Schedule under Tracking Order Tier 1 have been relocated in the table proposed above.

Next, the Exchange proposes to reformat the current Tape B Tier 1, Tape B Tier 2, Tape B Tier 3 and Tape B Step Up Tier requirements and credits in a table titled ''Tape B Tiers'' which would appear on the Fee Schedule as follows:

TAPE B TIERS

Tier	Minimum requirement for tape B			Minimum requirement for NYSE arca options	Credit for tape B adding	
	Adding ADV of tape B CADV	Adding increase in tape B of tape B CADV	Adding increase baseline	Market maker electronic posting volume of TCADV by OTP holder or OTP firm affiliated with the ETP holder (%)	Tape B credit	Tape B additional credit [g]
Tier 1 [h]	1.50%				($0.0030)	
Tier 2 [h]	1.00% or				(0.0028)	
	0.25% above April 2020					
Tier 3 [h]	0.20%			0.50	(0.0025)	
Step Up	0.50%	20	Q3 2019			($0.0002)
	0.50%	30	Q3 2019			(0.0003)
	0.50%	40	Q3 2019			(0.0004)

The Exchange notes that each of the requirements and credits that currently appear on the Fee Schedule under the Tape B Tier 1, Tape B Tier 2, Tape B Tier 3 and Tape B Step Up Tier have been relocated in the table proposed above and in proposed footnotes (g) and (h). The Exchange proposes to relocate certain rates in footnotes because these rates do not have a logical place in the proposed table. The proposed footnotes under the proposed new ''Tape B Tiers'' table would be as follows:

[g] This credit shall be in addition to the ETP Holder's Tiered or Standard credit(s); provided, however, that such combined credit(s) in Tape B shall not exceed $0.0032, unless the ETP Holder's Adding Tape B ADV increases at least 150% over the ETP Holder's Adding ADV in Q3 2019, as a percentage of Tape B CADV, in which case the ETP Holder can receive a combined credit of up to:

- $0.0033 per share if the ETP Holder is registered as a Lead Market Maker or Market Maker in at least 150 Less Active ETPs in which it meets at least two Performance Metrics, and has Tape B Adding ADV equal to at least 0.65% of Tape B CADV, or
- $0.0034 per share if the ETP Holder is registered as a Lead Market Maker or Market Maker in at least 200 Less Active ETPs in which it meets at least two Performance Metrics, and has Tape B Adding ADV equal to at least 0.70% of Tape B CADV.

[h] LMMs cannot qualify for this Tier.

Next, the Exchange proposes a non-substantive change to the presentation of the Tier rates applicable to securities with a per share price below $1.00. The Exchange proposes a table presentation under current section VII titled Tier Rates—Round Lots and Odd Lots (Per Share Price below $1.00). The proposed change to section VII would appear in the Fee Schedule in one table. More specifically, the Exchange proposes to reformat the current Sub-Dollar Adding Step Up Tier requirements and credits in a proposed new table titled ''Sub-Dollar Adding Step Up Tier'' which would appear on the Fee Schedule as follows:

SUB-DOLLAR ADDING STEP UP TIER

Tier	Minimum requirement	Credit for sub-dollar adding orders of total dollar value
	1 Million adding ADV with a per share price below $1.00 (“sub-dollar adding orders”) and adding increase of CADV in sub-dollar adding orders over July 2020, as a percentage of CADV with a per share price below $1.00 (%)	All tapes (%)
Sub-Dollar Adding Step Up Tier	0.20	0.050
	0.50	0.100
	0.75	0.125
	1.00	0.150

The Exchange notes that the requirements and credits that currently appear on the Fee Schedule under Sub-Dollar Adding Step Up Tier have been relocated in the table proposed above.

Finally, Section VI of the Fee Schedule currently states that the Exchange does not provide any credit for Indications of Interest (‘‘IOI’’). The Exchange proposes to relocate the reference to no credit for IOIs to Section IV of the Fee Schedule titled ‘‘Other Standard Rates for Securities with a Per Share Price $1.00 or Above’’. Specifically, the Exchange proposes to revise the first bullet under Section IV. As proposed, the revised bullet would be as follows:

- No fee or credit for Non-Displayed Limit Orders that add liquidity or for executions resulting from IOIs.

The Exchange believes relocating the pricing related to executions from IOIs to Section IV is appropriate because the pricing for IOI is not tiered. Additionally, since the Exchange does not charge a fee or provide a credit, the Exchange believes adding reference to IOIs to the existing bullet would add clarity to the Fee Schedule and facilitate market participants' understanding of the fees charged for services currently offered by the Exchange.

As noted above, the Exchange is not proposing any substantive change to any current fee or credit. The purpose of the proposed rule change is to make a non-substantive change to reorganize the presentation of the Fee Schedule in order to enhance its clarity and transparency, thereby making the Fee Schedule easier to navigate.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ‘‘Act’’) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[12] which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes are reasonable and equitable because they are clarifying, and non-substantive and the Exchange is not changing any current fees or credits that apply to trading activity on the Exchange. Further, the changes are designed to make the Fee Schedule easier to read and make it more user-friendly to better display the allocation of fees and credits among Exchange members. The Exchange believes that this proposed format will provide additional transparency of Exchange fees and credits. The Exchange also believes that the proposal is non-discriminatory because it applies uniformly to all ETP Holders, and again, the Exchange is not making any changes to existing fees and credits. The Exchange also believes that the proposed change would protect investors and the public interest because the reformatted Fee Schedule would make the Fee Schedule more accessible and transparent and facilitate market participants' understanding of the rates applicable for services currently offered by the Exchange. Finally, the Exchange believes that the reformatted Fee Schedule, as proposed herein, will be clearer and less confusing for investors and will eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

The Exchange believes that the proposed reformatted the Fee Schedule is equitable and not unfairly discriminatory because the resulting streamlined Fee Schedule would continue to apply to ETP Holders as it does currently because the Exchange is not adopting any new fees or credits or removing any current fees or credits from the Fee Schedule that impact ETP Holders. All ETP Holders would continue to be subject to the same fees and credits that currently apply to them.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[14] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition. The Exchange's proposal to reformat its Fee Schedule will not place any undue burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because all ETP Holders would continue to be subject to the same fees and credits that currently apply to them. The Exchange notes that the proposal does not change the amount of any current fees or rebates, but rather makes clarifying and formatting changes, and therefore does not raise any competitive issues. To the extent the proposed rule

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(8).

change places a burden on competition, any such burden would be outweighed by the fact that a streamlined Fee Schedule would promote clarity and reduce confusion with respect to the fees and credits that ETP Holders would be subject to.

Intermarket Competition. The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. Market share statistics provide ample evidence that price competition between exchanges is fierce, with liquidity and market share moving freely from one execution venue to another in reaction to pricing changes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [15] of the Act and subparagraph (f)(2) of Rule 19b–4 [16] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2021–92 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2021–92. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2021–92 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23925 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(2).

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93449; File No. SR–ISE–2021–23]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Exchange's Nonstandard Expirations Pilot Program

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 2021, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period for the Exchange's nonstandard expirations pilot program, currently set to expire on November 4, 2021.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE filed a rule change for the listing and trading on the Exchange, on a twelve month pilot basis, of p.m.-settled options on broad-based indexes with nonstandard expirations dates [3] (''Program''). The Program permits both Weekly Expirations and End of Month (''EOM'') expirations similar to those of the a.m.-settled broad-based index options, except that the exercise settlement value of the options subject to the pilot are based on the index value derived from the closing prices of component stocks. This pilot was extended various times with the last extension through November 4, 2021.[4]

Supplementary Material .07(a) to Options 4A, Section 12 provides that the Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Weekly Expirations are subject to all provisions of Options 4A, Section 12 and are treated the same as options on the same underlying index that expire on the third Friday of the expiration month. Unlike the standard monthly options, however, Weekly Expirations are p.m.-settled.

Pursuant to Supplementary Material .07(b) to Options 4A, Section 12 the Exchange may open for trading EOM expirations on any broad-based index eligible for standard options trading to expire on the last trading day of the month. EOM expirations are subject to all provisions of Options 4A, Section 12 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, the EOM expirations are p.m.-settled.

The Exchange now proposes to amend Supplementary Material .07(c) to Options 4A, Section 12 so that the duration of the Program for these nonstandard expirations will be through May 4, 2022. The Exchange continues to have sufficient systems capacity to handle p.m.-settled options on broad-based indexes with nonstandard expirations dates and has not encountered any issues or adverse market effects as a result of listing them. Additionally, there is continued investor interest in these products. The Exchange will continue to make public on its website any data and analysis it submits to the Commission under the Program.

The Exchange will be submitting a rule change to request that the Program become permanent. In lieu of submitting any additional annual reports, the Exchange would provide additional information requested by the Commission in connection with the permanency rule change for this Program. The Exchange would continue to provide the Commission with ongoing data unless and until the Program is made permanent or discontinued.

The Exchange believes that the proposed extension of the Program will not have an adverse impact on capacity.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes the proposed rule change will protect investors and the public interest by providing the Exchange, the Commission and investors the benefit of additional time to analyze nonstandard expiration options. In particular, the Exchange believes that the Program has been successful to date. The Exchange has not encountered any problems with the Program. By extending the Program, investors may continue to benefit from a wider array of investment opportunities. Additionally, both the Exchange and the Commission may continue to monitor the potential for adverse market effects of p.m.-settlement on the market, including the underlying cash equities market, at the expiration of these options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Options with nonstandard expirations would be available for trading to all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that it may immediately extend the Program prior to the current expiration date so that the pilot may continue uninterrupted. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Program. Accordingly, the Commission hereby waives the operative delay and

[3] *See* Securities Exchange Act Release No. 82612 (February 1, 2018), 83 FR 5470 (February 7, 2018) (approving SR–ISE–2017–111) (Order Approving a Proposed Rule Change To Establish a Nonstandard Expirations Pilot Program).

[4] *See* Securities Exchange Act Release Nos. 85030 (February 1, 2019), 84 FR 2633 (February 7, 2019) (SR–ISE–2019–01); 85672 (April 17, 2019), 84 FR 16899 (April 23, 2019) (SR–ISE–2019–11); 87380 (October 22, 2019), 84 FR 57786 (October 28, 2019) (SR–ISE–2019–28); 88681 (April 17, 2020), 85 FR 22775 (April 23, 2020) (SR–ISE–2020–17); 90265 (October 23, 2020), 85 FR 68605 (October 29, 2020) (SR–ISE–2020–34); and 91486 (April 6, 2021), 86 FR 19048 (April 12, 2021) (SR–ISE–2021–06).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2021–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2021–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2021–23, and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23924 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93460; File No. SR–PEARL–2021–52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX PEARL, LLC To Amend Exchange Rule 501, Days and Hours of Business, To Make Juneteenth National Independence Day a Holiday of the Exchange

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 2021, MIAX PEARL, LLC (''MIAX Pearl)'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 501, Days and Hours of Business, Interpretation and Policy .02, to make Juneteenth National Independence Day a holiday of the Exchange. Juneteenth National Independence Day was designated a legal public holiday in June 2021.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 501, Days and Hours of Business, Interpretation and Policy .02, to make Juneteenth National Independence Day a holiday of the Exchange. On June 17, 2021, Juneteenth National Independence Day was designated a legal public holiday.[3] Consistent with broad industry sentiment [4] and the approach recommended by the Securities Industry and Financial Markets Association (''SIFMA''),[5] the Exchange proposes to add ''Juneteenth National Independence Day'' to the existing list of holidays in Exchange Rule 501, Interpretation and Policy .02. As a result, the Exchange will not be open for business on Juneteenth National Independence Day, which falls on June 19 of each year. In accordance with Exchange Rule 501, Interpretation and Policy .02, when the holiday falls on a Saturday, the Exchange will not be open for business on the preceding Friday, and when it falls on a Sunday, the Exchange will not

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Public Law 117–17.

[4] *See, e.g., https://www.bloomberg.com/news/articles/2021-06-18/bofa-makes-juneteenth-a-holiday-joining-jpmorgan-wells-fargo?sref=HhuelscO.*

[5] SIFMA recommends a full market close in observance of Juneteenth National Independence Day. *See https://www.sifma.org/resources/general/holiday-schedule/. See* also *https://www.sifma.org/resources/news/sifma-revises-2022-fixed-income-market-close-recommendations-in-the-u-s-to-include-full-close-for-juneteenth-national-independence-day/.*

be open for business on the succeeding Monday.[6]

The first sentence of Interpretation and Policy .02 would read as follows (proposed additions *underlined*):

The Board of Directors has determined that the Exchange will not be open for business on New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Good Friday, Memorial Day, *Juneteenth National Independence Day,* Independence Day, Labor Day, Thanksgiving Day or Christmas Day.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed change promotes just and equitable principles of trade and removes impediment to and perfects the mechanism of a free and open market and a national market system because the proposed rule change would clearly state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 fell on a Saturday or Sunday. The change would thereby promote clarity and transparency in the Exchange's Rules by updating the list of holidays of the Exchange. The proposed rule change was based on recent proposals by NYSE Arca, Inc., New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc.[9] Therefore, the proposed change does not raise any new or novel issues. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather to amend the Exchange Rule regarding days and hours of business.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative prior to 30 days after the date of the filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because the proposed rule change, as described above, would state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 fell on a Saturday or Sunday. The Exchange further states that the proposed change does not raise any new or novel issues. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–PEARL–2021–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2021–52. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

[6] Exchange Rule 501. There is an exception to the practice if unusual business conditions exist. *Id.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Securities Exchange Act Release Nos. 93186 (September 30, 2021), 86 FR 55041 (October 5, 2021) (SR–NYSEArca–2021–85); 93183 (September 30, 2021), 86 FR 55068 (October 5, 2021) (SR–NYSE–2021–56); 93187 (September 30, 2021), 86 FR 55069 (October 5, 2021) (SR–NYSEAmer–2021–39); 93182 (September 30, 2021), 86 FR 55083 (October 5, 2021) (SR–NYSECHX–2021–13); 93179 [sic] (September 30, 2021), 86 FR 55033 (October 5, 2021) (SR–NYSENAT–2021–18).

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2021–52, and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23932 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93452; File No. SR–MEMX–2021–15]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing of a Proposed Rule Change To Amend the Corporate Documents of the Exchange's Parent Company

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 2021, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend and restate the Fifth Amended and Restated Limited Liability Company Agreement (the ''Fifth Amended Holdco LLC Agreement'') of MEMX Holdings LLC (''Holdco'') as the Sixth Amended and Restated Limited Liability Company Agreement of Holdco (the ''Sixth Amended Holdco LLC Agreement'') to reflect certain amendments, as further described below.[3] Holdco is the parent company of the Exchange and directly or indirectly owns all of the limited liability company membership interests in the Exchange. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend and restate the Holdco LLC Agreement to reflect: (i) Amendments related to the creation of the Class C Units[4] and the Common Units[5] in connection with the sale by Holdco of Class C Units to certain Members[6] in a capital raise transaction (the ''Transaction''); (ii) amendments related to the voting rights of the Members associated with the ownership of certain Units consistent with certain BHCA[7] considerations; (iii) amendments to provisions related to the election by a Member to specify the maximum voting percentage that such Member may have with respect to any determination under the Holdco LLC Agreement consistent with certain BHCA considerations; (iv) amendments to various other provisions related to BHCA considerations; (v) amendments related to certain governance changes with respect to the Holdco Board in connection with the Transaction; and (vi) various clarifying, updating, conforming, and other non-substantive amendments. Each of these amendments is discussed below.[8]

Background

There are two primary purposes of the Exchange's proposal to amend and restate the Holdco LLC Agreement as described herein—

(1) to create two new classes of membership interests in Holdco (*i.e.,* the Class C Units and the Common Units), each of which is divided into a ''voting'' series and a ''non-voting'' series, and effectuate the sale by Holdco of Class C Units to certain Members pursuant to the Transaction; [9] and

(2) to divide each of the two existing series[10] of Class A Units (*i.e.,* the Class A–

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References herein to the ''Holdco LLC Agreement'' refer to the Fifth Amended Holdco LLC Agreement or the Sixth Amended Holdco LLC Agreement, as appropriate in the context.

[4] As proposed, the term ''Class C Units'' means the Class C–1 Units and the Class C–2 Units; the term ''Class C–1 Units'' means the Units having the privileges, preference, duties, liabilities, obligations and rights specified with respect to ''Class C–1 Units'' in the Holdco LLC Agreement; and the term ''Class C–2 Units'' means the Units having the privileges, preference, duties, liabilities, obligations and rights specified with respect to ''Class C–2 Units'' in the Holdco LLC Agreement. The term ''Units'' means a unit representing a fractional part of the membership interests of the members of Holdco. Currently, there are two classes of Units—the Class A Units (which are divided into the Class A–1 Units and the Class A–2 Units) and the Class B Units.

[5] As proposed, the term ''Common Units'' means the Units having the privileges, preference, duties, liabilities, obligations and rights specified with respect to ''Common Units'' in the Holdco LLC Agreement. As proposed, the Common Units are divided into the Voting Common Units and the Nonvoting Common Units.

[6] The term ''Member'' refers to a person (*i.e.,* an individual or entity) that owns one or more Units and is admitted as a limited liability company member of Holdco.

[7] The term ''BHCA'' means the United States Bank Holding Company Act of 1956, as amended and in effect from time to time, and the rules and regulations promulgated thereunder.

[8] All section references herein are to sections of the Holdco LLC Agreement unless indicated otherwise.

[9] The Exchange notes that no Common Units will be sold in connection with the Transaction; however, as proposed, Class C Units are convertible into Common Units, as further described below.

[10] The Exchange notes that Section 3.2, which provides for the authorization and issuance of the Class A Units, currently refers to the Class A–1 Units and the Class A–2 Units as separate ''classes'' of Units; however, the Exchange is proposing to amend Section 3.2 to reflect that the Class A–1 Units and the Class A–2 Units are separate ''series'' of Units. The Holdco Board believes that the Class A–1 Units and the Class A–2 Units are more appropriately designated as separate ''series'' instead of ''classes'' of Units, as such Units have identical privileges, preference, duties, liabilities, obligations, and rights under the Holdco LLC Agreement and the only difference between such Units is the original purchase price paid by the applicable Members. In connection with this

Continued

1 Units and the Class A–2 Units) into a ''voting'' series and a ''non-voting'' series in a manner consistent with the proposed voting structure of the Class C Units and the Common Units.

The proceeds resulting from the sale of Class C Units pursuant to the Transaction will be paid to Holdco by the Members participating in the Transaction as purchasers of Class C Units (the ''Participating Members''), and such proceeds will be used by Holdco for general corporate expenses, including to support the operations and regulation of the Exchange, which is a subsidiary of Holdco. All Participating Members are currently investors in, and Members of, Holdco. Although each Member's proportionate ownership of Holdco will change as a result of the Transaction, no Member will own, directly or indirectly, Units constituting more than twenty percent (20%) of any class of Units or will otherwise exceed any ownership or voting limitation applicable to the Members set forth in the Holdco LLC Agreement after giving effect to the Transaction.[11]

Currently, the Holdco LLC Agreement provides for a governance structure of Holdco in which the Members (*i.e.,* persons that own one or more Units) do not have any voting or management rights, except in certain very limited circumstances,[12] and the authority to manage and control the business and affairs of Holdco, including the right to amend or modify the Holdco LLC Agreement, is otherwise vested in the Holdco Board.[13] Due to certain requirements and restrictions under the BHCA applicable to certain Members, the Exchange is now proposing to modify this governance structure to provide for certain voting rights of the Members associated with the ownership of the Class A Units, the Class C Units, and the Common Units by dividing such classes of Units into ''voting'' and ''non-voting'' series and prescribing certain matters on which such series are entitled to vote. The Exchange notes that the sole purpose of the proposed changes to Holdco's governance structure with respect to the Members' voting rights associated with the ownership of such Units in this regard is to facilitate certain Members' continued compliance with requirements and restrictions under the BHCA regarding investments in nonbanking companies, in light of recent amendments to the BHCA regulations issued by the Board of Governors of the Federal Reserve System regarding the framework for determining ''control'' under the BHCA, which became effective on September 30, 2020, as well as interpretations of such amendments by certain Members that are subject to the BHCA.

Additionally, in connection with the Transaction, three Members that do not currently have the right to nominate a director (''Director'') to the Holdco Board—Citicorp North America, Inc. (''Citi''), UBS Americas Inc. (''UBS''), and Wells Fargo Central Pacific Holdings, Inc. (''Wells Fargo'')—will receive the right to nominate a Director, thereby increasing the size of the Holdco Board from eleven to fourteen Directors. Other than such change to the composition of the Holdco Board, a proposed change to the definition of Supermajority Board Vote,[14] and the proposed changes related to the Members' voting rights associated with the ownership of the Class A Units, the Class C Units, and the Common Units, each as further described below, the governance of Holdco would continue under its existing structure. None of the amendments to the Holdco LLC Agreement proposed herein would impact the governance of the Exchange.

The Transaction and all amendments to the Holdco LLC Agreement proposed herein were previously approved by the Holdco Board on October 22, 2021, in accordance with the Holdco LLC Agreement. The Exchange expects the Transaction to close on or shortly after the date on which the amendments to the Holdco LLC Agreement proposed herein become effective. The amendments to the Holdco LLC Agreement proposed herein will become effective on the date that such amendments are approved by the Commission (the ''Effective Date'').

Amendments Related to the Creation of the Class C Units and the Common Units

In connection with the Transaction, the Exchange is proposing to amend the Holdco LLC Agreement to create two new classes of Units—the Class C Units and the Common Units—in order to effectuate the sale of Class C Units by Holdco to the Participating Members. As proposed, the Class C Units and the Common Units are each divided into a ''voting'' series (*i.e.,* the Class C–1 Units and the Voting Common Units, respectively) with certain voting rights as prescribed in amended Section 4.7 and a ''non-voting'' series (*i.e.,* the Class C–2 Units and the Nonvoting Common Units, respectively) with more limited voting rights as prescribed in amended Section 4.7, as further described below. The sole purpose of creating separate series of Class C Units and Common Units with different voting rights (*i.e.,* a ''voting'' series and a ''non-voting'' series) is to facilitate certain Members' compliance with the BHCA, as described above.

Currently, Section 3.2 contains provisions related to the authorization and issuance of the Class A Units (including the Class A–1 Units and the Class A–2 Units) and that specify the voting rights associated with such Units.[15] The Exchange proposes to amend Section 3.2 to reflect the creation of the Class C Units and the Common Units and to add new paragraphs (e) and (f) that contain provisions related to the authorization and issuance of the Class C Units (including the Class C–1 Units and the Class C–2 Units) and the Common Units (including the Voting Common Units and the Nonvoting Common Units) and that specify the voting rights associated with such Units.[16] In connection with the creation of the Class C Units and the Common Units, the Exchange also proposes to add definitions of the following terms in Section 1.1 (the ''Definitions'' section of the Holdco LLC Agreement): Class C

proposed amendment, the Exchange also proposes to replace certain references to the term ''Class'' with references to the term ''series'' (and to add other references to the term ''series'') throughout the Holdco LLC Agreement, as appropriate, and to delete ''Class'' as a defined term in Section 1.1, as such term would no longer be used as a stand-alone term.

[11] *See* Section 3.5, which sets forth certain limitations with respect to the ownership and voting of Units.

[12] Section 4.6 currently provides that, except as required by applicable law or the provisions of Section 15.9, Members do not have any voting or management rights. Section 15.9 provides that a Member's consent is required in connection with amendments or modifications to the Holdco LLC Agreement that modify the rights or obligations of such Member in a manner that is disproportionately adverse to such Member (or a type, class or series of Units held by such Member) or that materially increase an existing obligation or impose a new material obligation on such Member. As further described below, the Exchange is proposing to amend Sections 4.6 and 4.7 to reflect the prescription of certain additional voting rights associated with the Class A Units.

[13] *See* Sections 4.6, 8.2, and 15.9.

[14] *See* Section 1.1 for the definition of Supermajority Board Vote.

[15] The Exchange notes that it is proposing to amend Section 3.2 to reflect changes to the voting rights associated with the Class A Units, as further described below.

[16] The voting rights associated with the Class C Units and the Common Units are specified in proposed new paragraphs (e) and (f) of Section 3.2 by reference to the applicable paragraphs of amended Section 4.7, which prescribe the actions on which such Units are entitled to vote, as further described below.

Member; [17] Class C–1 Units; [18] Class C–2 Units; [19] Class C Unit Original Purchase Price; [20] Class C Units; [21] Common Member; [22] Common Units; [23] Converted Common Units; [24] Converted Common Member; [25] Nonvoting Common Units; [26] and Voting Common Units.[27] The Exchange also proposes to amend the definitions of ''Units'' and ''Pro Rata Portion'' in Section 1.1 to reflect the creation of, and include references to, the Class C Units and the Common Units.

The Exchange notes that no Common Units will be sold in connection with the Transaction and, as stated in proposed new Section 3.2(f), no Common Units will be issued and outstanding as of the Effective Date. However, as proposed, Class C Units are convertible into Common Units, and proposed Section 3.2(f) provides in this regard that Common Units will only be issuable in connection with an investment in Holdco or upon conversion of Class C Units as set forth in proposed new Section 3.11. In this connection, the Exchange proposes to add a new Section 3.11 entitled ''Class C Unit Conversion'' that provides for the conversion rights of Class C Units, and to re-number existing Section 3.11 to Section 3.12 and update relevant section references throughout the Holdco LLC Agreement accordingly. Proposed Section 3.11(a) provides for the optional conversion of Class C Units as set forth in proposed new Exhibit G to the Holdco LLC Agreement,[28] and proposed Section 3.11(b) provides for the mandatory conversion of Class C Units upon the consummation of a Qualified Public Offering.[29] Proposed Section 3.11(c) provides that in the event of any conversion to Common Units of any Class C Units, Class C–1 Units shall be converted into Voting Common Units, and Class C–2 Units shall be converted into Nonvoting Common Units. This conversion structure is designed to keep the same voting construct in place with respect to the Common Units that are issued upon the conversion of any Class C Units in a manner consistent with the BHCA considerations described above.

The primary distinction between the Class C Units and the Common Units, as well as the primary purpose of providing for the convertibility of Class C Units into Common Units, is the respective priority of Distributions [30] made to the Members with respect to such Units, which is the main economic consequence of a Member's ownership of such Units. The respective priority of Distributions made to the Members with respect to the different classes of Units is currently set forth in Section 7.3 for Distributions other than of proceeds in the event of a liquidation of Holdco and in Section 13.3 for Distributions of proceeds in the event of a liquidation of Holdco. In this connection, the Exchange proposes to amend Sections 7.3 and 13.3 to reflect the respective priority of Distributions with respect to the Class C Units and the Common Units under such sections. As such proposed amendments include the addition of new paragraphs, and the re-numbering of certain existing paragraphs, in Sections 7.3 and 13.3, the Exchange also proposes to update relevant section references throughout the Holdco LLC Agreement accordingly.

As noted above, there are currently two classes of Units—the Class A Units and the Class B Units.[31] As the Class B Units represent an incentive pool and do not have many of the rights and obligations associated with the Class A Units, there are currently several terms and provisions in the Holdco LLC Agreement that are associated only with the Class A Units and the Class A Members, and thus, make specific reference to ''Class A Units'' and/or ''Class A Members.'' However, as proposed, the Class C Units will generally have the same rights and obligations as the Class A Units with two primary distinctions: (i) The convertibility of Class C Units into Common Units; and (ii) the respective priority of Distributions under Sections 7.3 and 13.3. Other than these distinctions, a Member's ownership of Class A Units and/or Class C Units would generally confer the same rights and obligations on such Member with respect to such Units. Accordingly, the Exchange is proposing to make several amendments throughout the Holdco LLC Agreement to reflect that the Class C Units have such rights and obligations and to otherwise reflect the creation of the Class C Units, including to add references to ''Class C Units'' or ''Class C Member'' alongside references to ''Class A Units'' or ''Class A Member,'' as applicable, where appropriate for this purpose; replace references to ''Class A Member'' with references to ''Member'' where appropriate for this purpose; add proposed new Section 10.1(a)(ii)(C)(II) related to the transfer of Class C Units as permitted by the Holdco Board, which is consistent with the current provision related to the transfer of Class A Units as permitted by the Holdco

[17] As proposed, the term ''Class C Member'' means a Member holding Class C–1 Units or Class C–2 Units, as applicable, in its capacity as such, together with its Affiliates that hold Class C–1 Units or Class C–2 Units, as applicable (for the sake of clarity, such Member and such Affiliates shall be considered to be one (1) Class C Member).

[18] *See supra* note 4 for the proposed definition of the term ''Class C–1 Units''.

[19] *See supra* note 4 for the proposed definition of the term ''Class C–2 Units''.

[20] As proposed, the term ''Class C Unit Original Purchase Price'' means the purchase price per Class C Unit set forth in the Members Schedule as of the Effective Date.

[21] *See supra* note 4 for the proposed definition of the term ''Class C Units''.

[22] As proposed, the term ''Common Member'' means a Member holding Common Units in its capacity as such, together with its Affiliates that hold Common Units (for the sake of clarity, such Member and such Affiliates shall be considered to be one (1) Common Member).

[23] *See supra* note 5 for the proposed definition of the term ''Common Units''.

[24] As proposed, the term ''Converted Common Units'' means the Common Units which were issued in connection with the conversion of Class C Units pursuant to proposed new Section 3.11, as further described below.

[25] As proposed, the term ''Converted Common Member'' means a Member holding Converted Common Units in its capacity as such, together with its Affiliates that hold Converted Common Units (for the sake of clarity, such Member and such Affiliates shall be considered to be one (1) Converted Common Member).

[26] As proposed, the term ''Nonvoting Common Units'' refers to the Nonvoting Common Units described in proposed new Section 3.2(f)(iii).

[27] As proposed, the term ''Voting Common Units'' refers to the Voting Common Units described in proposed new Section 3.2(f)(ii).

[28] The Exchange proposes to add new Exhibit G to the Holdco LLC Agreement, which contains provisions related to the conversion rights of the Class C Units. Specifically, proposed new Exhibit G includes provisions related to the mechanics of, and processes associated with, the optional conversion of Class C Units into Common Units; the ratio of Common Units issuable upon the optional conversion of Class C Units; and the adjustment to the Class C Unit Conversion Price and other actions in connection with certain diluting issuances of Common Units, Distributions payable on the Common Units, stock splits and combinations, and reorganizations of Holdco. The Exchange also proposes to add a definition of the term ''Exempted Securities'' in Section 1.1 to reference the definition of such term as set forth in Exhibit G, which refers to the types of Units that are deemed not to be diluting issues for purposes of adjustments to the Class C Unit Conversion Price, and to amend the definition of the term ''New Securities'' in Section 9.1(b) to exclude from such term the conversion of Class C Units pursuant to proposed new Sections 3.10(d), 3.10(e), or 3.11 and certain Common Units that are deemed Exempted Securities. The Exchange also proposes to add any matter subject to determination by Supermajority Board Vote pursuant to Section 1.4 of Exhibit G as a Supermajority Board Matter in Exhibit C. *See* Section 1.1 for the definition of Supermajority Board Matter.

[29] *See* Section 1.1 for the definition of Qualified Public Offering.

[30] *See* Section 1.1 for the definition of Distribution.

[31] The Class B Units are intended to be an incentive pool and may only be issued to employees, officers, directors, or other service providers of Holdco or any subsidiary of Holdco pursuant to the Amended and Restated MEMX Holdings LLC 2018 Profits Interests Plan (the ''Incentive Plan''). The Class B Units have no voting rights, except as required by applicable law, and do not have many of the rights and obligations associated with the Class A Units as set forth in the Holdco LLC Agreement. *See* Section 3.3.

Board in current Section 10.1(a)(i)(C); [32] and change the defined term ''Nominating Class A Member'' to ''Nominating Member'' in Sections 1.1 and 8.3(a) and replace all references to such term throughout the Holdco LLC Agreement accordingly.

Additionally, as proposed, the Common Units (or the Converted Common Units, as applicable) will have certain of the same rights and obligations as the Class A Units and the Class C Units. Accordingly, the Exchange is also proposing to make several amendments throughout the Holdco LLC Agreement to reflect that the Common Units (or the Converted Common Units, as applicable) have such rights and obligations, including to add references to ''Common Units'' or ''Common Member'' (or ''Converted Common Units'' or ''Converted Common Member,'' as applicable) alongside references to ''Class A Units'' or ''Class A Member,'' as applicable, where appropriate for this purpose; replace references to ''Class A Member'' with references to ''Member'' where appropriate for this purpose; change the defined term ''Tag-along Class A Member'' to ''Tag-along Member'' in Sections 1.1 and 10.5 and update all references to such term throughout the Holdco LLC Agreement accordingly; change the defined term ''Fully Participating Tag-along Class A Member'' to ''Fully Participating Tag-along Member'' in Sections 1.1 and 10.5 and replace all references to such term throughout the Holdco LLC Agreement accordingly; and change the defined term ''Qualified Class A Member'' to ''Qualified Member'' in Sections 1.1 and 12.1 and replace all references to such term throughout the Holdco LLC Agreement accordingly.

The Exchange is also proposing to make amendments to the Holdco LLC Agreement's provisions related to meetings of the Members to reflect certain rights associated with the Class C Units in this regard, which amendments include amending new Section 4.7(h) (current Section 4.7(a)), which currently sets forth the requirements for Directors and Class A Members to call a meeting of the Members, to reflect that a meeting of the Members may also be called by the Class C Members holding, in the aggregate, at least twenty percent (20%) of the aggregate then-outstanding Class C Units and amending new Section 4.7(m) (current Section 4.7(f)) to reflect that a quorum for the transaction of business by the Members is the presence of Members holding at least fifty percent (50%) of the then-outstanding Class A Units *and Class C Units* (considered in the aggregate). The Exchange notes that, as proposed, the Common Members would not have any such rights, and thus, would not be referenced in these amended provisions.

As the Participating Members will be purchasing Class C Units in connection with the Transaction, such Members will become Class C Members as of the Effective Date. In this connection, the Exchange is proposing to amend the definitions of the applicable Members that are defined in Section 1.1 to reflect that such Members will be Class C Members as of the Effective Date.[33]

Amendments Related to the Voting Rights of Members Associated With the Ownership of Certain Units

As noted above, in order to facilitate certain Members' continued compliance with certain restrictions under the BHCA in light of recent amendments to the relevant BHCA regulations, the Exchange is proposing to amend the Holdco LLC Agreement to modify the governance structure of Holdco, which currently does not provide for any voting or management rights of the Members (except in certain very limited circumstances [34]) to provide for certain voting rights of the Members associated with the existing Class A Units, as well as the proposed new Class C Units and Common Units, as prescribed in amended Section 4.7, which is further described below.

In this connection, consistent with the voting/non-voting construct of the proposed new Class C Units and Common Units, the Exchange is proposing to amend the Holdco LLC Agreement to divide each existing series of the Class A Units (*i.e.,* the Class A–1 Units and the Class A–2 Units) into a ''voting'' series and a ''non-voting'' series. Specifically, as proposed, the existing Class A–1 Units and Class A–2 Units would be designated as the ''voting'' series of the Class A Units (referred to collectively as the ''Voting Class A Units'') and the proposed new Nonvoting Class A–1 Units and Nonvoting Class A–2 Units would be designated as the ''non-voting'' series of the Class A Units (referred to collectively as the ''Nonvoting Class A Units'').[35] In this connection, the Exchange proposes to amend Section 3.2 to reflect the creation of the Nonvoting Class A–1 Units and the Nonvoting Class A–2 Units and to add new paragraphs (c) and (d) that contain provisions related to the authorization and issuance of the Nonvoting Class A–1 Units and the Nonvoting Class A–2 Units and that specify the voting rights associated with such Units.[36] In connection with the creation of the Nonvoting Class A–1 Units and the Nonvoting Class A–2 Units, the Exchange also proposes to add definitions of the following terms in Section 1.1: Nonvoting Class A Units; [37] Nonvoting Class A–1 Units; [38] Nonvoting Class A–2 Units; [39] and Voting Class A Units.[40] The Exchange also proposes to amend the definitions of ''Class A Member'' and ''Class A Units'' in Section 1.1 to reflect the creation of the Nonvoting Class A–1 Units and the Nonvoting Class A–2 Units, as well as to include references to the Nonvoting Class A Units, the Nonvoting Class A–1 Units, and/or the Nonvoting Class A–2 Units, as applicable, throughout the Holdco LLC Agreement where appropriate for this purpose.

The proposed changes to the voting rights of the Members are reflected in the proposed amendments to Section 4.7, which include the addition of new paragraphs (a) through (g) that prescribe the actions on which the various series of Units are entitled to vote, as follows:

- Proposed new paragraph (a) provides that the following actions shall

[32] In connection with this proposed amendment, the Exchange also proposes to add definitions of ''Released Class C Member'' and ''Released Class C Units'' in Section 1.1 and proposed new Section 10.1(a)(ii)(C)(II) that are consistent with the definitions of ''Released Class A Member'' and ''Released Class A Units'' as such terms are currently defined in current Section 10.1(a)(i)(C).

[33] The Participating Members that are defined in Section 1.1 are Bank of America, Citadel, Fidelity, Goldman Sachs, Jane Street, JPMorgan, Morgan Stanley, UBS, Virtu, and Wells Fargo. The Exchange notes that it is also proposing to add ''Citi'' as a defined term in Section 1.1, which would reflect that Citi is a Class C Member, as further described below.

[34] *See supra* note 12.

[35] The Exchange notes that no additional Class A Units will be issued in connection with the Transaction or the amendments to the Holdco LLC Agreement proposed herein; instead, certain of the issued and outstanding Class A–1 Units and Class A–2 Units currently held by the Class A Members would be reclassified into Nonvoting Class A–1 Units and Nonvoting Class A–2 Units, respectively.

[36] The voting rights associated with the Nonvoting Class A–1 Units and the Nonvoting Class A–2 Units are specified in proposed new paragraphs (c) and (d) of Section 3.2 by reference to the applicable paragraphs of amended Section 4.7, which prescribe the actions on which such Units are entitled to vote, as further described below.

[37] As proposed, the term ''Nonvoting Class A Units'' means the Nonvoting Class A–1 Units and the Nonvoting Class A–2 Units.

[38] As proposed, the term ''Nonvoting Class A–1 Units'' refers to the Nonvoting Class A–1 Units described in proposed new Section 3.2(c).

[39] As proposed, the term ''Nonvoting Class A–2 Units'' refers to the Nonvoting Class A–2 Units described in proposed new Section 3.2(d).

[40] As proposed, the term ''Voting Class A Units'' means Class A–1 Units and the Class A–2 Units.

not be effected without the approval of a majority of the then-outstanding Voting Class A Units, voting together as a single class: (i) Subject to Sections 7.2(b), 7.3 and 13.3, approval of any Distributions of profits or capital of Holdco to the Members (other than Tax Advances [41]); (ii) approval of a transaction to which Holdco is a party and which results in a Change of Control; [42] (iii) any liquidation, dissolution or winding up of any subsidiary of Holdco (other than the Exchange) and, if applicable, the related appointment of a liquidating trustee; and (iv) commencement, filing or initiation of any proceeding relating to voluntary or involuntary bankruptcy or insolvency with respect to Holdco;

• proposed new paragraph (b) provides that any waiver or amendment of any provision of the Holdco LLC Agreement which would significantly and adversely affect the rights, preferences, powers or privileges of the Class A–1 Units and Class A–2 Units shall not be effected without the approval of the majority of the then-outstanding Voting Class A Units, voting together as a single class;

• proposed new paragraph (c) provides that the following actions shall not be effected without the approval of a majority of the then-outstanding Class C–1 Units and Voting Common Units, voting together as a single class: (i) Subject to Sections 7.2(b), 7.3 and 13.3, approval of any Distributions of profits or capital of Holdco to the Members (other than Tax Advances); (ii) approval of a transaction to which Holdco is a party and which results in a Change of Control; (iii) any liquidation, dissolution or winding up of any subsidiary of Holdco (other than the Exchange) and, if applicable, the related appointment of a liquidating trustee; and (iv) commencement, filing or initiation of any proceeding relating to voluntary or involuntary bankruptcy or insolvency with respect to Holdco;

• proposed new paragraph (d) provides that any waiver or amendment of any provision of the Holdco LLC Agreement which would materially and adversely affect the rights, preferences, powers or privileges of the Class C–1 Units shall not be effected without the approval of a majority of the then-outstanding Class C–1 Units;

• proposed new paragraph (e) provides that the following actions (which shall be construed in a manner consistent with 12 CFR 225.2(q)(2)(i)) shall not be effected without the approval of the majority of the then-outstanding Class C–1 Units and Class C–2 Units, voting together as a single class: (i) Any issuance of Units or Unit Equivalents [43] of Holdco that have (A) a preference in respect of Distributions or return of capital that is senior to the holders of the Class C Units or (B) no right to convert into Common Units; and (ii) any exchange, reclassification or cancellation (whether by merger, consolidation or otherwise) or modification of the terms of all or part of the Class C Units which exchange, reclassification, cancellation or modification, as applicable, significantly and adversely affects the rights or preferences of the Class C Units;

• proposed new paragraph (f) provides that the following actions (which shall be construed in a manner consistent with 12 CFR 225.2(q)(2)(i)) shall not be effected without the approval of the majority of the then-outstanding Class A–1 Units, Class A–2 Units, Nonvoting Class A–1 Units and Nonvoting Class A–2 Units, voting together as a single class: (i) Any issuance of Units or Unit Equivalents of Holdco that have a preference in respect of Distributions or return of capital that is senior to the holders of the Class A Units; and (ii) any exchange, reclassification or cancellation (whether by merger, consolidation or otherwise) or modification of the terms of all or part of the Class A Units which exchange, reclassification, cancellation or modification, as applicable, significantly and adversely affects the rights or preferences of the Class A Units; and

• proposed new paragraph (g) provides any liquidation, dissolution or winding up of Holdco (which shall be construed in a manner consistent with 12 CFR 225.2(q)(2)(i)) shall not be effected without the approval of the majority of the then-outstanding Class A–1 Units, Class A–2 Units, Nonvoting Class A–1 Units, Nonvoting Class A–2 Units, Class C–1 Units, Class C–2 Units, Voting Common Units and Nonvoting Common Units, voting together as a single class.[44]

The Exchange notes that each of the actions set forth in proposed new paragraphs (a) through (g) on which certain Members are entitled to vote are significant corporate matters solely related to the administration, ownership, capital, or dissolution of Holdco or any Holdco subsidiary (other than the Exchange) and, except as set forth therein (or as otherwise currently provided in the Holdco LLC Agreement), the authority to manage and control the business and affairs of Holdco, including the right to amend or modify the Holdco LLC Agreement, would continue to be vested in the Holdco Board as it is today. As reflected in proposed new paragraphs (a) through (g) of Section 4.7, each of the Voting Class A Units, the Class C–1 Units, and the Voting Common Units series has broader voting rights than the Nonvoting Class A Units, the Class C–2 Units, and the Nonvoting Common Units series, respectively, in that the former series are entitled to vote in some capacity on a wider array of actions than the latter series. The Exchange notes that the distinctions with respect to the actions on which such series are entitled to vote pursuant to amended Section 4.7, as described above, are what separate such series into ''voting'' series and ''non-voting'' series for BHCA purposes in a manner intended to facilitate certain Members' continued compliance with the BHCA. As noted above, the sole purpose of providing for the voting rights associated with the ''voting'' and ''non-voting'' series of the Class A Units, the Class C Units, and the Common Units as set forth in proposed new paragraphs (a) through (g) of Section 4.7 is to facilitate such Members' continued compliance with the BHCA.

In connection with the foregoing proposed amendments to Section 4.7, the Exchange proposes to further amend Section 4.7 to re-number the existing paragraphs to begin after proposed new paragraph (g) and to update relevant section references throughout the Holdco LLC Agreement accordingly; to amend paragraphs (a) and (b) of Section 3.2 to reflect the additional voting rights associated with the Class A–1 Units and the Class A–2 Units as prescribed in amended Section 4.7; to amend Section 7.2(a) to reflect that the Holdco Board's discretion regarding the amounts and timing of Distributions to Members is subject to the required approvals of the Voting Class A Units, the Class C–1 Units, and the Voting Common Units, as applicable, pursuant to proposed new Sections 4.7(a)(i) and 4.7(c)(i); and to amend Section 13.1(a) to reflect that a determination to dissolve and wind up the affairs of Holdco requires the approval of the applicable Members pursuant to proposed new Section 4.7(g)

[41] *See* Section 1.1 for the definition of Tax Advances.

[42] *See* Section 1.1 for the definition of Change of Control.

[43] *See* Section 1.1 for the definition of Unit Equivalents.

[44] The Exchange notes that each action described in proposed new paragraphs (a) through (g) would also require approval of the Holdco Board by Supermajority Board Vote, which is also currently required with respect to each of such actions under the Holdco LLC Agreement.

in addition to the approval of the Holdco Board by Supermajority Board Vote. Additionally, the Exchange proposes to amend Section 4.6, which also relates to the voting rights of the Members, in a manner that conforms and is consistent with the proposed amendments to Section 4.7 that provide for certain voting rights of the Members associated with the ownership of Class A Units, Class C Units, and Common Units; to otherwise reflect the creation of the Class C Units, the Common Units, and the Nonvoting Class A Units; to delete certain language relating to the treatment of the Class A Units and the Class B Units for certain BHCA purposes that is no longer consistent with the proposed voting structure of such Units; and to make minor formatting and other non-substantive changes.

Amendments Related to a Member's Maximum Voting Percentage

In connection with the Transaction and the proposed amendments to the voting structure of the Units described above, including the creation of the ''voting'' and ''non-voting'' series of Class C Units (*i.e.,* the Class C–1 Units and the Class C–2 Units, respectively) and the similar division of the Class A Units into ''voting'' and ''non-voting'' series (*i.e.,* the Voting Class A Units and the Nonvoting Class A Units), the Exchange is also proposing to amend the Holdco LLC Agreement's provisions related to a Member's election to specify the maximum voting percentage that such Member may have with respect to any determination under the Holdco LLC Agreement, which are set forth in Section 3.10. As with the proposed amendments to the voting structure of the Units, the purpose of the amendments to Section 3.10 is to facilitate certain Members' compliance with the BHCA.

Currently, Section 3.10 provides that a Class A Member may notify Holdco of its election (a ''Restricted Voting Election'') to be treated for purposes of the Holdco LLC Agreement as a ''Restricted Voting Member'' such that the maximum percentage of the aggregate voting interests attributable to the Class A Units that such Member may own is the percentage designated in such Member's Restricted Voting Election.[45] Notwithstanding the fact that the Class A Units are currently intended to not have any voting rights other than as required by applicable law, this provision was included in the current Holdco LLC Agreement out of an abundance of caution in connection with the BHCA considerations of certain Class A Members in order to provide a mechanism for Class A Members to manage any potential deemed voting interests attributable to the Class A Units for BHCA and/or other regulatory purposes. Section 3.10 also currently contains certain notification procedures of Holdco in connection with its receipt of any Restricted Voting Election and provides for certain types of transfers of Class A Units by a Restricted Voting Member (*e.g.,* pursuant to a widespread public distribution to non-Affiliates) in which the aggregate voting interests attributable to the Class A Units transferred by such Restricted Voting Member would no longer be limited to such Restricted Voting Member's Maximum Aggregate Voting Interest with respect to the transferee (such transfers, ''Permitted Regulatory Transfers'').[46]

The Exchange is now proposing to amend Section 3.10 to maintain the Restricted Voting Election mechanism for Class A Members with respect to the Voting Class A Units (*i.e.,* the ''voting'' series of the Class A Units) and to similarly provide for the Restricted Voting Election mechanism for Class C Members with respect to the Class C–1 Units (*i.e.,* the ''voting'' series of the Class C Units). Specifically, Section 3.10(a) would now provide that any Class A Member or Class C Member may make a Restricted Voting Election to specify its respective maximum Voting Class A Voting Percentage[47] (the ''Maximum Voting Class A Voting Percentage'') or its respective maximum Class C–1 Voting Percentage[48] (the ''Maximum Class C–1 Voting Percentage'').[49] Any Maximum Voting Class A Voting Percentage or Maximum Class C–1 Voting Percentage specified in a Restricted Voting Election would generally be irrevocable, subject to certain specified exceptions, in a manner consistent with BHCA restrictions. In this connection, the Exchange proposes to amend new Exhibit F (current Exhibit H) to the Holdco LLC Agreement, which is the form of Restricted Voting Election Notice to be used by a Restricted Voting Member, to reflect that a Restricted Voting Member may now specify a Maximum Voting Class A Voting Percentage and a Maximum Class C–1 Voting Percentage.

Also in connection with the proposed voting structure of the Class A Units and the Class C Units, the Exchange proposes to provide in new Section 3.10(d) for the automatic conversion of a Restricted Voting Member's Voting Class A Units and Class C–1 Units into Nonvoting Class A Units and Class C–2 Units, respectively, to the extent that a Restricted Voting Member would be deemed to own, control, or have the power to vote (for any reason) a number of Voting Class A Units or Class C–1 Units, as applicable, that causes such Restricted Voting Member to exceed its Maximum Voting Class A Voting Percentage or Maximum Class C–1 Voting Percentage, as applicable. This automatic conversion feature is designed to ensure that a Restricted Voting Member does not exceed its Maximum Voting Class A Voting Percentage or Maximum Class C–1 Voting Percentage for any reason to facilitate any such Restricted Voting Member's compliance with the BHCA.

Additionally, the Exchange proposes to provide in new Section 3.10(e) for: (i) The automatic conversion of a Restricted Voting Member's Nonvoting Class A Units and Class C–2 Units into Voting Class A Units and Class C–1 Units, respectively, if such Nonvoting Class A Units or Class C–2 Units, as applicable, are transferred to a third party (other than another Restricted Voting Member or an Affiliate of the transferee Restricted Voting Member) in connection with a Permitted Regulatory Transfer; and (ii) the optional

[45] Such maximum percentage is currently referred to in the Holdco LLC Agreement as a Member's ''Maximum Aggregate Voting Interest'' which is defined in Section 1.1 with a reference to the definition of such term in Section 3.10. In connection with the proposed amendments to Section 3.10 described below, the Exchange is proposing to delete such defined term and add new defined terms that are conceptually similar with respect to the respective maximum voting percentages of a Member's Class A Voting Units and Class C–1 Units, as further described below.

[46] The Exchange proposes to add the defined term ''Permitted Regulatory Transfers'' in Section 1.1 to refer to the definition of such term in proposed new Section 3.10(e)(i), which refers to such transactions as set forth therein.

[47] The Exchange proposes to add the defined term ''Voting Class A Voting Percentage'' in Section 1.1 which means at any time of calculation, a fraction, expressed as a percentage (a) the numerator of which is be the number of then issued and outstanding Voting Class A Units held a Class A Member and (b) the denominator of which is the number of then issued and outstanding Voting Class A Units held by all Class A Members.

[48] The Exchange proposes to add the defined term ''Class C–1 Voting Percentage'' in Section 1.1 which means, at any time of calculation, a fraction, expressed as a percentage, (i) the numerator of which is the number of then issued and outstanding Class C–1 Units held by a Class C Member and (ii) the denominator of which is the number of then issued and outstanding Class C–1 Units held by all Class C Members.

[49] The Exchange proposes to add the defined terms ''Maximum Voting Class A Voting Percentage'' and ''Maximum Class C–1 Voting Percentage'' in Section 1.1 to refer to the definitions of such terms as set forth in Section 3.10(a), which are consistent with the definitions of such terms herein.

conversion (''Permitted Anti-Dilution Conversion'') of a Restricted Voting Member's Nonvoting Class A Units and Class C–2 Units into Voting Class A Units and Class C–1 Units, respectively, by delivery of a notice to Holdco (a ''Voting Conversion Notice'') if Holdco issues any new Units or Unit Equivalents that cause the Voting Class A Units or Class C–1 Units, as applicable, held by such Restricted Voting Member to represent a Voting Class A Voting Percentage or Class C–1 Voting Percentage, as applicable, that is less than such Restricted Voting Member's Voting Class A Voting Percentage or Class C–1 Voting Percentage, as applicable, immediately prior to such issuance (such Restricted Voting Member's ''Prior Voting Class A Voting Percentage'' and ''Prior Class C–1 Voting Percentage'', respectively) to the extent such conversion does not exceed such Prior Voting Class A Voting Percentage or Prior Class C–1 Voting Percentage, as applicable.[50]

The Exchange is also proposing to amend Section 3.10 to include additional provisions related to the effect and construction of such section consistent with the BHCA, which are designed to facilitate certain Members' continued compliance with the BHCA in light of the proposed voting structure of the Class A Units and the Class C Units described herein. The Exchange notes that it is also proposing certain other amendments to Section 3.10, including modifications to Holdco's notification procedures and other administrative provisions related to recordkeeping in connection with any Restricted Voting Election.

Amendments to Various Provisions Related to BHCA Considerations

The Exchange is also proposing to make certain amendments to the Holdco LLC Agreement to update existing provisions and include additional provisions for the purpose of facilitating certain Members' continued compliance with BHCA requirements and restrictions.

First, the Exchange is proposing to amend Section 7.5, which relates to Distributions of securities or other property held by Holdco made ''in kind'' to Members, to update such provision in a manner consistent with the BHCA considerations of Members subject to the BHCA. Currently, Section 7.5 provides that, except as required by applicable law, Holdco is not authorized to make Distributions to the Members in the form of securities or other property held by Holdco. This restriction on Distributions made in kind to Members by Holdco will remain in place, but the Exchange now proposes to amend Section 7.5 to also provide that no Member may be required to accept consideration with respect to a merger, business combination or other transaction to which Holdco or any Holdco subsidiary is a party in the form of securities or other property if such Member notifies Holdco that receipt of such consideration by such Member would violate the BHCA or other applicable law or cause such Member to control or be presumed to control the issuer of such asset under the BHCA, and that in either such case, the affected Member may elect, in the alternative, to receive the fair market value of such consideration in cash. The purpose of adding this provision is to ensure that any Member subject to the BHCA is not required to receive non-cash consideration if such receipt would have adverse consequences under the BHCA with respect to such Member in connection with a transaction involving Holdco or any Holdco subsidiary that involves the distribution of non-cash consideration to Members made by a third party (or otherwise not directly Distributed by Holdco), which is not currently covered by Section 7.5. Thus, the purpose of this proposed amendment is to address an additional scenario where a distribution of non-cash consideration may be made to the Members in connection with their ownership of Units in a manner that protects Members subject to the BHCA against adverse consequences resulting from non-cash distributions in connection therewith and thereby facilitates such Member's continued compliance with the BHCA. Additionally, the Exchange proposes to further amend Section 7.5 to provide a carve-out from the general restriction on Distributions made in kind to Members set forth therein to the extent otherwise expressly provided in the Holdco LLC Agreement. The purpose of this change is to resolve a conflict between the terms of Section 13.3(f), which provides that a liquidator of Holdco may in certain circumstances Distribute non-cash assets in kind to Members, while Section 7.5 currently prohibits this only subject to applicable law. Thus, this proposed amendment is intended to resolve an existing conflict between such provisions and clarify the intent thereof.

Also for purposes of facilitating certain Members' continued compliance with the BHCA, the Exchange proposes to add new paragraph (i) of Section 11.3 to state that Holdco represents and warrants that Holdco is not a covered fund (as such term is defined in 12 CFR 248.10(b)), and not a bank, bank holding company, depository institution or holding company for a depository institution, as such terms are defined in the BHCA, and that Holdco shall not allow itself to become a covered fund, bank, bank holding company, depository institution or holding company for a depository institution (as so defined). The Exchanges [sic] notes that it believes such representations of Holdco are true as of the date hereof.

Amendments Related to Governance Changes With Respect to the Holdco Board in Connection With the Transaction

In connection with the Transaction, each of Citi, UBS, and Wells Fargo will receive the right to nominate a Director. Additionally, each of Citi, UBS, and Wells Fargo has expressed that it will nominate a Director, thereby increasing the size of the Holdco Board from eleven to fourteen Directors, as of the Effective Date. To reflect such governance changes, the Exchange proposes to amend the Holdco LLC Agreement to add a definition of ''Citi'' in Section 1.1 that is consistent with the definitions of other Nominating Members with similar rights and preferences as Citi; amend the definition of ''Bank Class A Member'' [51] in Section 1.1 to include a reference to Citi as a

[50] The Exchange proposes to add the defined terms ''Permitted Anti-Dilution Conversion'', ''Prior Class C–1 Voting Percentage'', ''Prior Voting Class A Voting Percentage'', and ''Voting Conversion Notice'' in Section 1.1 to refer to the definitions of such terms as set forth in amended Section 3.10, which are consistent with the definitions of such terms herein.

[51] The term ''Bank Class A Member'' refers to each of Bank of America, Morgan Stanley, UBS, JPMorgan, Goldman Sachs, Wells Fargo, and any other Member that is specifically designated as a Bank Class A Member (which would also include Citi, as proposed herein), in each case, together with each of their respective Affiliates. *See* Section 1.1. The Exchange notes that the only consequence of designation as a Bank Class A Member under the Holdco LLC Agreement is that at least one Director nominated by any Bank Class A Member (*i.e.,* a Bank Director) is generally required to establish a quorum for the transaction of business of the Holdco Board. *See* Section 8.6(a). In connection with the proposed amendments to replace references to ''Class A Member'' with references to ''Member'' where appropriate throughout the Holdco LLC Agreement, as described above, the Exchange is proposing to change the defined terms ''Bank Class A Member'' to ''Bank Member''; ''Buy Side Class A Member'' to ''Buy Side Member''; ''Market Maker Class A Member'' to ''Market Maker Member''; and ''Retail Broker Class A Member'' to ''Retail Broker Member'' in Section 1.1 to reflect that a Member's designation as one of these categories is not tied to its ownership of Class A Units exclusively and to update references to such terms throughout the Holdco LLC Agreement accordingly.

designated Bank Member; amend the definitions of ''UBS'' and ''Wells Fargo'' in Section 1.1 to reflect that each is now a Nominating Member and is no longer an Excluded Class A Member;[52] delete the definition of ''Excluded Class A Member'' in Section 1.1 and make related conforming changes throughout the Holdco LLC Agreement to reflect that there are no longer any Excluded Class A Members; amend Section 8.3(a) to reflect the increased size of the Holdco Board at fourteen Directors; and amend Section 8.3(b) to reference each of Citi, UBS, and Wells Fargo as Members with the right to nominate a Director.

In addition, the Exchange proposes to amend the definition of Supermajority Board Vote in Section 1.1, as further described below. Currently, the term Supermajority Board Vote means the affirmative vote of at least seventy-seven percent (77%) of the votes of all Directors then entitled to vote on the matter under consideration and who have not recused themselves, whether or not present at the applicable meeting of the Board. This aspect of the definition is not changing, however, the definition also currently states that if the affirmative vote threshold results in the necessity of the affirmative vote of all such Directors with respect to such matter, that an affirmative vote of all but one of such Directors shall instead be required. This provision is intended to cover situations where a large number of Directors are recused from voting on a matter or the size of the Board is such that a Board vote would require unanimity and instead allows a matter to be approved so long as all but one Director is in favor of a particular voting matter. The Exchange proposes to modify the provision to instead state that if the affirmative vote threshold results in the necessity of the affirmative vote of eight (8) Directors or fewer, an affirmative vote of all but two (2) such Directors shall be required instead with respect to such matter. The proposed change will ensure that a more consistent voting structure is maintained even if several Directors are recused from voting on a particular matter. Under the current structure with eleven (11) Directors a matter can be approved as an affirmative Supermajority Board Vote even if two (2) Directors vote against a matter and under the proposed structure with fourteen (14) Directors a matter can be approved as an affirmative Supermajority Board Vote even if three (3) Directors vote against a matter. Accordingly, the Holdco Board believes it is appropriate to maintain this relative voting structure even if eight (8) or fewer Directors are voting on a particular matter (*i.e.,* allowing a matter to be approved even if two (2) Directors vote against such matter).

Clarifying, Updating, Conforming, and Other Non-Substantive Amendments

Finally, the Exchange proposes to make various clarifying, updating, conforming, and other non-substantive amendments to the Holdco LLC Agreement, each of which is discussed below.

Amendments to the Definition of ''Registration Date''

The term ''Registration Date'' is currently defined in Section 15.9(a) to mean the date that the Exchange is registered as a national securities exchange pursuant to Section 6(a) of the Act. On May 4, 2020, the Commission approved the Exchange's application for registration as a national securities exchange, and thus, the Registration Date occurred on such date.[53] Accordingly, the Exchange proposes to amend the Holdco LLC Agreement to reflect that the Registration Date occurred on such date by deleting the current definition of ''Registration Date'' in Section 15.9(a) and amending the definition of ''Registration Date'' in Section 1.1 to reference May 4, 2020.

Amendment to the Definition of ''Schwab''

The Exchange proposes to amend the definition of ''Schwab'' in Section 1.1 to reflect that Schwab is a Nominating Member, as the Holdco Board previously granted Schwab the right to nominate a Director in accordance with the Holdco LLC Agreement. Thus, the purpose of this proposed change is to update the definition of Schwab to reflect a previously-approved change with respect to the composition of the Holdco Board.

Amendments To Delete Obsolete Provisions and Language

The Exchange proposes to make the following amendments to the Holdco LLC Agreement to delete provisions and language that are now obsolete due to the passage of time or the occurrence of certain events:

- *Deletion of the defined term ''Exchange Application'':* The Exchange proposes to delete the defined term ''Exchange Application'' in Section 1.1, as such term is not currently used elsewhere in the Holdco LLC Agreement. Previously, the term ''Exchange Application'' was referenced only in Section 13.1(d) and referred to the application of the Exchange as a national securities exchange; however, Section 13.1(d) (including all references to the term ''Exchange Application'') was deleted in its entirety in connection with previous amendments to the Holdco LLC Agreement,[54] but the term ''Exchange Application'' was inadvertently not deleted from Section 1.1. Thus, this proposed amendment is intended to add clarity to the Holdco LLC Agreement by deleting an unused and obsolete defined term.
- *Deletion of language in #11 of Exhibit C:* Exhibit C to the Holdco LLC Agreement contains an enumerated list of the Supermajority Board Matters. The Exchange proposes to delete language in #11 of Exhibit C that refers to an event of dissolution as set forth in Section 13.1(d), which was inadvertently not deleted in connection with the previous amendments to the Holdco LLC Agreement that deleted Section 13.1(d) in its entirety, as described above.
- *Amendments to Section 8.18(a):* The Exchange proposes to amend Section 8.18(a) to delete paragraphs (i) and (ii). Currently, paragraph (i) provides for an obligation of Holdco to amend and restate the limited liability company agreement of the Exchange (the ''Exchange LLC Agreement'') that was in effect prior to the Registration Date as necessary in order to obtain registration for the Exchange as a national securities exchange (such amended and restated Exchange LLC Agreement is currently referred to in Section 8.18(a)(i) as the ''Restated MEMX LLC Agreement''), and paragraph (ii) provides that the Exchange shall be managed by the Exchange Board upon the execution and delivery of the Restated MEMX LLC Agreement. Each of the events described in paragraphs (i) and (ii) has already occurred and the Exchange is currently managed by the Exchange Board; thus, such provisions are now obsolete.[55] In connection with the deletion of these obsolete provisions, the Exchange also proposes to state in Section 8.18(a) that

[52] The term ''Excluded Class A Member'' currently refers to UBS and Wells Fargo and is generally intended to reference certain Class A Members that do not have the right to nominate a Director.

[53] On May 4, 2020, the Commission approved the Exchange's application for registration as a national securities exchange. *See* Securities Exchange Act Release No. 88806 (May 4, 2020), 85 FR 27451 (May 8, 2020).

[54] *See* Securities Exchange Act Release No. 91478 (April 5, 2021), 86 FR 18570 (April 9, 2021).

[55] *See id.* The Exchange LLC Agreement was amended and restated as the Second Amended and Restated Limited Liability Company Agreement of MEMX LLC, which was executed, delivered, and became effective on May 19, 2020.

the Exchange shall be managed by the Exchange Board to reflect the current governance of the Exchange.

• *Amendments to Section 3.8:* The Exchange proposes to delete language in Section 3.8 that contemplates a time prior to the Registration Date, since, as noted above, the Registration Date already occurred on May 4, 2020.

• *Deletion of Section 11.8:* Currently, Section 11.8 requires certain Members (or their Affiliates, as applicable) that operate a U.S.-registered broker-dealer to connect to the Exchange prior to the first date on which the Exchange commences operating a national securities exchange. As the Exchange first commenced operations as a national securities exchange on September 21, 2020, the Exchange proposes to delete Section 11.8 in its entirety, as such provision is now obsolete.

Amendments To Replace References to ''Restated MEMX LLC Agreement'' With ''MEMX LLC Agreement''

As noted above, the term ''Restated MEMX LLC Agreement'' is currently defined in Section 8.18(a)(i) and refers to a version of the Exchange LLC Agreement that was already amended and restated as necessary in order to obtain registration for the Exchange as a national securities exchange. As the Exchange LLC Agreement was already amended and restated for this purpose (*i.e.,* as the Second Amended and Restated Limited Liability Company of MEMX LLC, which became effective on May 19, 2020 and is currently in effect) and the Exchange is proposing to delete Section 8.18(a)(i) in its entirety, as described above, the Exchange proposes to delete the defined term ''Restated MEMX LLC Agreement'' and add ''MEMX LLC Agreement'' as a defined term that references the Second Amended and Restated Limited Liability Company Agreement of MEMX LLC. In connection with such changes, the Exchange also proposes to replace all references to ''Restated MEMX LLC Agreement'' with references to ''MEMX LLC Agreement'' so that all such references are to the Exchange LLC Agreement that is currently in effect.

Amendments Related to the Removal of a Director From the Holdco Board

Section 8.4(a) generally provides that a Director may be removed from his or her position as such, or replaced at any time, upon the written request of the Nominating Member that nominated such Director. Additionally, Section 8.4(b) provides that a Nominating Member may irrevocably waive its right in Section 8.4(a) to remove or replace a Director nominated by such Nominating Member, which the Exchange believes certain Members may elect to do for purposes related to compliance with restrictions under the BHCA's ''control'' framework. Section 8.4(b) also currently provides that if a Nominating Member makes such an election to irrevocably waive its right to remove or replace a Director, and the Director nominated by such Nominating Member dies, resigns from the Holdco Board in accordance with Section 8.4(c) (*i.e.,* delivers his or her written resignation as a Director to the Holdco Board), or is removed as a result of a statutory disqualification, then the Nominating Member that nominated such Director may nominate a new Director to fill such vacancy. However, currently, Section 8.4 does not explicitly address the situation where a Director is terminated or resigns from his or her employment with such Nominating Member (or its Affiliate) but does not also resign from the Holdco Board by delivering his or her written resignation as a Director to the Holdco Board in accordance with Section 8.4(c). In this situation, the Exchange believes such Director would be deemed to have resigned as a Director from the Holdco Board, but for the avoidance of doubt, the Exchange is proposing to add new Section 8.4(f) to provide that any such Director would be automatically and immediately removed from his or her position as a Director upon Holdco's receipt of written notice from the Nominating Member that such Director has been terminated or resigned from his or her employment with the Nominating Member (or its Affiliate). In this connection, the Exchange also proposes to amend Section 8.4(b) to provide that a Nominating Member that has irrevocably waived its right to remove or replace a Director pursuant to Section 8.4(b) may also nominate a new Director to fill any vacancy resulting from proposed new Section 8.4(f).

Amendments Related to the Incentive Plan

The Exchange proposes to amend Section 3.3(b) to replace the second reference to the Amended and Restated MEMX Holdings LLC 2018 Profits Interests Plan with a reference to the appropriate defined term (*i.e.,* ''Incentive Plan'') and to clarify that any Class B Units issued by Holdco pursuant to the MembersX Holdings LLC 2018 Profits Interests Plan (a predecessor plan to the Incentive Plan) or the Incentive Plan prior to the Sixth Amended Holdco LLC Agreement Effective Date have not been cancelled, forfeited, repurchased or redeemed and subsequently re-issued. Each of these amendments is designed to clarify existing language in the Holdco LLC Agreement.

Amendments Related to Certain Agreements Between Holdco and the Members

The Exchange proposes to add substantially similar paragraphs in Sections 10.1, 10.2, 10.4, and 11.5 (*i.e.,* proposed new Section 10.1(a)(iii), proposed new Section 10.2(d), proposed new Section 10.4(f), and proposed new Section 11.5(e), respectively) stating that certain provisions in those sections constitute an individual agreement between Holdco, on the one hand, and each applicable Member, on the other hand, that such provisions do not constitute an agreement among the Members, and that only Holdco (and not the Members) shall have the right to enforce such provisions against any Member.[56] The Exchange notes that these proposed new paragraphs are intended to clarify, but not substantively modify, the enforceability of such existing provisions in the Holdco LLC Agreement with respect to Holdco and the Members.

Amendment Related to the Registration of MEMX Execution Services LLC With FINRA

Currently, Section 10.6(h) references MEMX Execution Services LLC[57] as a subsidiary of Holdco ''which plans to register with FINRA as a broker-dealer''; however, MEMX Executions Services LLC became registered with FINRA as a broker-dealer on June 5, 2020. Thus, the Exchange proposes to amend Section 10.6(h) to update this provision to reference MEMX Execution Services LLC as a subsidiary of Holdco ''that is registered with FINRA as a broker-dealer.''

Amendments Related to the Fourth Amended LLC Agreement Effective Date

Currently, the term ''Fourth Amended LLC Agreement Effective Date'' is defined in Section 1.1 as February 19, 2020, which was the date on which the Fourth Amended and Restated LLC Agreement of Holdco became effective. Such term is currently referenced in Sections 10.6(a) and 12.4(c). The Exchange proposes to delete the defined

[56] The Exchange notes that the provisions referenced in each of these proposed new paragraphs are existing provisions, which are remaining substantially the same, except as modified to reflect the creation of the Class C Units, as applicable, or otherwise for formatting purposes or in a non-substantive manner.

[57] MEMX Execution Services LLC is an affiliate of the Exchange that provides the outbound routing of orders from the Exchange to other trading centers pursuant to Exchange Rule 2.11.

term ''Fourth Amended LLC Agreement Effective Date'' in Section 1.1 and to amend Sections 10.6(a) and 12.4(c) to replace the references to such term with references to February 19, 2020 (or the appropriate date if referencing an anniversary of such date) and make related conforming changes. The purpose of these amendments is to simplify the Holdco LLC Agreement by deleting a defined term and instead making specific reference to the appropriate dates.

Amendments Related to the Exhibits to the Holdco LLC Agreement

Currently, Exhibit E to the Holdco LLC Agreement is intended to reference a copy of the Exchange LLC Agreement and Exhibit F to the Holdco LLC Agreement is reserved with a placeholder, as it was deleted in a prior version of the Holdco LLC Agreement. The Exchange now proposes to delete current Exhibit E, as a copy of the Exchange LLC Agreement is separately maintained on the Exchange's public website (along with the Holdco LLC Agreement) and there is no longer any purpose for its reference or inclusion as an exhibit to the Holdco LLC Agreement. In connection with this change, the Exchange also proposes to re-letter the exhibits to the Holdco LLC Agreement to reflect the proposed deletion of Exhibit E, the previous deletion of Exhibit F, and the proposed addition of new Exhibit G, as described above. Accordingly, current Exhibits G, H, I, and J would be re-lettered as Exhibits E, F, H, and I, respectively.

Technical and Conforming Amendments To Reflect the Amendment and Restatement of the Holdco LLC Agreement

The Exchange proposes to make technical and conforming amendments to the cover page, table of contents, lead-in, recitals, and exhibits of the Holdco LLC Agreement to reflect that it is being amended and restated as the Sixth Amended Holdco LLC Agreement. Additionally, the Exchange proposes to amend the definition of ''Agreement'' to reference the Sixth Amended Holdco LLC Agreement; add ''Fifth Amended LLC Agreement'' as a defined term to mean the Fifth Amended Holdco LLC Agreement; replace references to ''Fourth Amended LLC Agreement'' with references to ''Fifth Amended LLC Agreement'' throughout the Holdco LLC Agreement, as appropriate; and update the certificate legend set forth in proposed new Section 3.12(b) (currently Section 3.11(b)) to include a reference to the Sixth Amended Holdco LLC Agreement. Each of these proposed amendments are conforming changes intended to reflect the amendment and restatement of the Holdco LLC Agreement.

Clean-Up Amendments

Lastly, the Exchange is proposing to make various non-substantive ''clean-up'' amendments throughout the Holdco LLC Agreement to correct typos, update section references, make minor grammatical and punctuational edits, and make other clarification and ministerial changes to clarify existing language or modify such language to conform with the other proposed amendments described above.

2. Statutory Basis

The Exchange believes that the proposed amendments to the Holdco LLC Agreement are consistent with Section 6(b) of the Act,[58] in general, and further the objectives of Section 6(b)(1) of the Act,[59] in particular, in that such amendments enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed amendments are consistent with Section 6(b)(5) of the Act,[60] which requires the rules of an exchange to be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the creation of the Class C Units and the Common Units is consistent with the Act as this will facilitate additional investments by existing Members of Holdco, including certain Members that do not currently have the right to nominate Directors to serve on the Holdco Board. Although each Member's proportionate ownership of Holdco will change as a result of the Transaction, no Member will own, directly or indirectly, Units constituting more than twenty percent (20%) of any class of Units or will otherwise exceed any ownership or voting limitation applicable to the Members set forth in the Holdco LLC Agreement after giving effect to the Transaction. Thus, the Exchange does not believe the creation of new Units or the Transaction will have any impact on the Exchange's ability to be organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, promoting just and equitable principles of trade, removing impediments to and perfect the mechanism of a free and open market, and protecting investors and the public interest. Further, the Exchange believes the proposed changes to the Holdco LLC Agreement are consistent with, and will not interfere with, the self-regulatory obligations of the Exchange. The Exchange importantly notes that it is not proposing to amend any of the provisions within the Holdco LLC Agreement or the Exchange LLC Agreement dealing with the availability or protection of information, books and records, undue influence, conflicts of interest, unfair control by an affiliate, or regulatory independence of the Exchange.

The Exchange reiterates that the proposed addition of certain voting rights of the Members associated with the existing Class A Units, as well as the proposed new Class C Units and Common Units is solely to facilitate certain Members' compliance with the BHCA. The Exchange notes that each of the actions on which certain Members are entitled to vote are significant corporate matters solely related to the administration, ownership, capital, or dissolution of Holdco or any Holdco subsidiary (other than the Exchange) and, except as set forth therein (or as otherwise currently provided in the Holdco LLC Agreement), the authority to manage and control the business and affairs of Holdco, including the right to amend or modify the Holdco LLC Agreement, would continue to be vested in the Holdco Board as it is today. Similarly, the Exchange believes the amendments to the Holdco LLC Agreement's provisions related to a Member's election to specify the maximum voting percentage that such Member may have with respect to any determination under the Holdco LLC Agreement, which are set forth in Section 3.10, are simply an expansion of existing provisions regarding specification of a maximum voting percentage and are designed to facilitate certain Members' compliance with the BHCA. While the Act does not separately compel compliance with the BHCA, the Exchange does not believe that any of these changes significantly changes the governance with respect to Holdco and thus will not impact governance of the Exchange. Accordingly, the Exchange believes the proposed changes will allow it to be organized as to have the capacity to

[58] 15 U.S.C. 78f(b).

[59] 15 U.S.C. 78f(b)(1).

[60] 15 U.S.C. 78f(b)(5).

carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, promoting just and equitable principles of trade, removing impediments to and perfect the mechanism of a free and open market, and protecting investors and the public interest.

As described above, in connection with the Transaction, each of Citi, UBS, and Wells Fargo will receive the right to nominate a Director and the size of the Holdco Board will increase from eleven to fourteen Directors, as of the Effective Date. The Exchange believes the proposed amendments to reflect the governance changes that will result from the Transaction and to make conforming changes to defined terms, are appropriate and consistent with the Act, as such amendments would update and clarify the relevant provisions of the Holdco LLC Agreement to reflect governance changes with respect to Holdco, as described above. Similarly, the Exchange believes the proposed changes to the definition of Supermajority Board Vote to provide that if eight (8) or fewer Directors are voting on a particular matter that an affirmative vote is present if all but two (2) Directors vote in favor of the matter, as this is consistent with the voting structure for matters with more than eight (8) Directors voting, where an affirmative vote is present even if two (currently, with eleven Directors) or three (as proposed, with fourteen Directors) Directors vote against a particular matter. The Exchange believes that updating the Holdco LLC Agreement with respect to the governance of Holdco to reflect these changes would ensure clarity with respect to the corporate documents of the Exchange's parent company, thereby enabling the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, promoting just and equitable principles of trade, removing impediments to and perfect the mechanism of a free and open market, and protecting investors and the public interest.

The Exchange believes the proposed amendments to clarify, correct inadvertent drafting errors, delete obsolete language and make other conforming changes consistent with the other proposed amendments to the Holdco LLC Agreement described above, and make technical and conforming changes to reflect that the Holdco LLC Agreement is being amended and restated from the Fifth Amended LLC Agreement to the Sixth Amended LLC Agreement are consistent with the Act, as such amendments would update and clarify the Holdco LLC Agreement, thereby increasing transparency and helping to avoid any potential confusion resulting from retaining outdated, obsolete, or unclear provisions. For these reasons, the Exchange believes such amendments would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal is not intended to address competitive issues but rather is concerned solely with the creation of additional classes of Units in connection with the Transaction as well as reflecting governance changes in connection with the Transaction, changes to the voting structure of existing Units consistent with the structure of the new Units, updates intended to facilitate compliance with the BHCA, and updates of Holdco's corporate documents related to the administration and functioning of Holdco, as described above.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2021–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MEMX–2021–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MEMX–2021–15 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[61]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23927 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93451; File No. SR–BX–2021–048]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of Request for PRISM

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 14, 2021, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delay the implementation of an amendment to Options 3, Section 7(d)(1)(A) relating to ''Financial Information eXchange'' or ''FIX'' in connection with offering BX Participants the ability to utilize FIX to submit orders to its Price Improvement Auction (''PRISM'') mechanism.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BX received approval [3] to amend Options 3, Section 7(d)(1)(A), relating to FIX, to offer BX Participants the ability to utilize FIX to submit orders to its PRISM mechanism. BX's amendment permitted it to offer Participants a manner in which to send messages through FIX, to other BX Participants, for the specific purpose of requesting another BX Participant submit an ''Initiating Order'' [4] along with the sender's PRISM Order [5] into the PRISM mechanism [6] for execution pursuant to Options 3, Section 13.

Specifically, the amendment expanded the capabilities of the FIX protocol to allow a BX Participant (sender) to utilize FIX to send a message to other BX Participants (responders) with an order the sender represents as agent (''PRISM Order'') on behalf of a Public Customer, broker dealer or other entity requesting the responders provide a contra-side Initiating Order (a ''response'') and begin a PRISM auction (collectively a ''Request for PRISM'').[7] If a BX Participant desires to respond to the request, the BX Participant adds an Initiating Order to the sender's PRISM Order and submits the paired order directly into PRISM, through FIX, for processing in accordance with Options 3, Section 13.[8]

The Exchange originally intended to begin implementation of the proposed rule change by June 30, 2021 [9] and subsequently extended the implementation until November 1, 2021.[10] At this time, the Exchange proposes to delay the implementation so that it would begin implementation prior to June 30, 2022. The Exchange will issue an Options Trader Alert to Participants with the date of implementation.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by delaying the implementation of its amendment to Options 3, Section 7(d)(1)(A) to allow the Exchange additional time to develop and test this functionality. The Exchange believes that additional time to develop and test this functionality will ensure a successful launch of the functionality.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to delay the adoption of the amendment to Options 3, Section 7(d)(1)(A) does not impose an undue burden on competition. Delaying the implementation of the functionality will allow the Exchange additional time to develop and test the functionality.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public

[61] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91124 (February 12, 2021), 86 FR 10363 (February 19, 2021) (SR–BX–2020–033) (Order Granting Approval of a Proposed Rule Change To Utilize the FIX Protocol To Submit Orders to BX's Price Improvement Auction Mechanism) (''Approval Order'').

[4] An Initiating Order is an order executed against principal interest or against any other order it represents as agent. *See* Options 3, Section 13.

[5] A PRISM Order is an order submitted by a BX Participant that it represents as agent on behalf of a Public Customer, broker dealer, or any other entity, electronically, for execution. *See* Options 3, Section 13.

[6] This proposal does not amend the PRISM rule within Options 3, Section 13 in connection with offering Participants the ability to submit a Request for PRISM through FIX.

[7] The Request for PRISM, if accepted and submitted into PRISM, would become the ''PRISM Order'' pursuant to Options 3, Section 13.

[8] BX Participants may elect to ''opt in'' to receive Requests for PRISM. BX Participants that do not elect to ''opt in'' will not receive such requests. Once a BX Participant elects to receive Requests for PRISM, they would receive all requests from any BX Participant submitting a Request for PRISM. The BX Participant cannot elect to only receive requests from certain Participants and the sender may not elect to send the request to a select group of BX Participants.

[9] *See* Approval Order page 10364, ''The Exchange intends to begin implementation of the proposed rule change by June 30, 2021.''

[10] *See* Securities Exchange Act Release No. 91864 (May 12, 2021), 86 FR 27003 (May 18, 2021) (SR–BX–2021–022) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of BX's Request for PRISM).

[11] 15 U.S.C. 78f(b)

[12] 15 U.S.C. 78f(b)(5).

interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay the Exchange can extend the implementation date of the Request for PRISM functionality, consistent with this filing, prior to the November 1, 2021 date specified in its previous filing. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2021–048 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2021–048. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2021–048 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23926 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93445; File No. SR–NYSEArca–2021–89]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the Bitwise Bitcoin ETP Trust Under NYSE Arca Rule 8.201–E

October 28, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 14, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Bitwise Bitcoin ETP Trust under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares). The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the Bitwise

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Bitcoin ETP Trust (the ''Trust''),[4] under NYSE Arca Rule 8.201–E, which governs the listing and trading of Commodity-Based Trust Shares.[5]

According to the Registration Statement, the Trust will not be registered as an investment company under the Investment Company Act of 1940,[6] and is not required to register thereunder. The Trust is not a commodity pool for purposes of the Commodity Exchange Act.[7]

The Exchange represents that the Shares satisfy the requirements of NYSE Arca Rule 8.201–E and thereby qualify for listing on the Exchange.[8]

Bitwise Bitcoin ETP Trust

Operation of the Trust [9]

The Trust will issue the Shares, which represent units of undivided beneficial ownership of the Trust. The Trust is a Delaware statutory trust and will operate pursuant to a trust agreement (the ''Trust Agreement'') between Bitwise Investment Advisers, LLC (the ''Sponsor'' or ''Bitwise'') and Delaware Trust Company, as the Trust's trustee (the ''Trustee''). The Trust will engage a third party custodian to act as the bitcoin custodian for the Trust (the ''Bitcoin Custodian'') to maintain custody of the Trust's bitcoin assets.[10] The Trust will engage a third party service provider to serve as the administrator and transfer agent (in such capacities, the ''Administrator'' and the ''Transfer Agent'').

According to the Registration Statement, the investment objective of the Trust is to seek to provide exposure to the value of bitcoin held by the Trust, less the expenses of the Trust's operations. In seeking to achieve its investment objective, the Trust will hold bitcoin and establish its Net Asset Value (''NAV'') at the end of every business day by reference to the CF Bitcoin-Dollar US Settlement Price (''CME US Reference Rate'').[11]

Under normal circumstances, the Trust's only asset will be bitcoin, and, under limited circumstances, cash. The Trust will not use derivatives that may subject the Trust to counterparty and credit risks.[12] The Trust will process all creations and redemptions in-kind, and accrue all ordinary fees in bitcoin (rather than cash), as a way of seeking to ensure that the Trust holds the desired amount of bitcoin-per-share. The Trust will not purchase or sell bitcoin, other than if the Trust liquidates or must pay expenses not contractually assumed by the Sponsor. Instead, financial institutions authorized to create and redeem Shares (each, an ''Authorized Participant'') will deliver, or cause to be delivered, bitcoin to the Trust in exchange for Shares of the Trust, and the Trust will deliver bitcoin to Authorized Participants when those Authorized Participants redeem Shares of the Trust.

Bitcoin, Bitcoin Market, Bitcoin Trading Platforms and Regulation of Bitcoin

The following sections, drawn from the Registration Statement, describe bitcoin, including the historical development of bitcoin and the Bitcoin network, how a person holds bitcoin, how to use bitcoin in transactions, the ''exchange'' market where bitcoin can be bought, held and sold, and the bitcoin ''over-the-counter'' (''OTC'') market.

Bitcoin

Bitcoin was first described in a white paper released in 2008 and published under the name ''Satoshi Nakamoto.'' The protocol underlying Bitcoin was subsequently released in 2009 as open source software and currently operates on a worldwide network of computers.

The Bitcoin network utilizes a digital asset known as ''bitcoin,'' which can be transferred among parties via the internet. Unlike other means of electronic payments such as credit card transactions, one of the advantages of bitcoin is that it can be transferred without the use of a central administrator or clearing agency. As a central party is not necessary to administer bitcoin transactions or maintain the bitcoin ledger, the term decentralized is often used in descriptions of bitcoin. Unless it is using a third party service provider, a party transacting in bitcoin is generally not afforded some of the protections that may be offered by intermediaries.

The first step in using the Bitcoin network for transactions is to download specialized software referred to as a ''bitcoin wallet.'' A user's bitcoin wallet can run on a computer or smartphone, and can be used both to send and to receive bitcoin. Within a bitcoin wallet, a user can generate one or more unique ''bitcoin addresses,'' which are conceptually similar to bank account numbers. After establishing a bitcoin address, a user can send or receive bitcoin from his or her bitcoin address to another user's bitcoin address. Sending bitcoin from one bitcoin address to another is similar in concept to sending a bank wire from one person's bank account to another person's bank account; however, such transactions are not managed by an intermediary and erroneous transactions generally may not be reversed or remedied once sent.

The amount of bitcoin associated with each bitcoin address, as well as each bitcoin transaction to or from such bitcoin address, is transparently reflected in the Bitcoin network's distributed ledger (''Blockchain'') and can be viewed by websites that operate as ''Blockchain explorers.'' Copies of the Blockchain exist on thousands of computers on the Bitcoin network throughout the internet. A user's bitcoin wallet will either contain a copy of the Blockchain or be able to connect with another computer that holds a copy of

[4] The Trust is a Delaware statutory trust that was formerly known as the Bitwise Bitcoin ETF Trust. On October 14, 2021, the Trust filed with the Commission an initial registration statement (the ''Registration Statement'') on Form S–1 under the Securities Act of 1933 (15 U.S.C. 77a). The description of the operation of the Trust herein is based, in part, on the Registration Statement.

[5] Commodity-Based Trust Shares are securities issued by a trust that represents investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the trust.

[6] 15 U.S.C. 80a–1.

[7] 17 U.S.C. 1.

[8] With respect to the application of Rule 10A–3 (17 CFR 240.10A–3) under the Act, the Trust relies on the exemption contained in Rule 10A–3(c)(7).

[9] The description of the operation of the Trust, the Shares and the bitcoin market contained herein are based, in part, on the Registration Statement. *See* note 4, *supra.*

[10] When capitalized, references to ''Bitcoin'' are to the Bitcoin network or the Bitcoin protocol. When lowercase, references to ''bitcoin'' are to the digital asset native to the Bitcoin network, which asset is the underlying commodity held by the Trust.

[11] The CME US Reference Rate is a daily reference rate of the US Dollar price of one bitcoin, calculated at 4:00 p.m. E.T. The CME US Reference Rate utilizes the same methodology as the CME CF Bitcoin Reference Rate (the ''CME UK Reference Rate''), which is calculated at 4:00 p.m. London time and was designed by the CME Group and Crypto Facilities Ltd to facilitate the development of financial products, including the cash settlement of Bitcoin Futures traded on the Chicago Mercantile Exchange (''CME''). Andrew Paine and William J. Knottenbelt, ''Analysis of the CME CF Bitcoin Reference Rate and CME CF Bitcoin Real Time Index,'' Imperial College Centre for Cryptocurrency Research and Engineering, November 14, 2016, available at *https://www.cmegroup.com/trading/files/bitcoin-white-paper.pdf.*

[12] The Trust may sell bitcoin and temporarily hold cash as part of a liquidation of the Trust or to pay certain extraordinary expenses not assumed by the Sponsor. Under the Trust Agreement, the Sponsor has agreed to assume the normal operating expenses of the Trust, subject to certain limitations. For example, the Trust will bear any indemnification or litigation liabilities as extraordinary expenses.

In addition, the Trust may, from time to time, passively receive, by virtue of holding bitcoin, certain additional digital assets (''IR Assets'') or rights to receive IR Assets (''Incidental Rights'') through a fork of the Blockchain or an airdrop of assets. The Trust Agreement requires that the Sponsor analyze as soon as possible, whether or not such Incidental Rights and IR Assets should be disclaimed. In the event the Sponsor instructs the Bitcoin Custodian to claim such Incidental Rights and IR Assets, it will immediately distribute such Incidental Rights and IR Assets to shareholders of record.

the Blockchain. The innovative design of the Bitcoin network protocol allows each Bitcoin user to trust that their copy of the Blockchain will generally be updated consistent with each other user's copy.

When a Bitcoin user wishes to transfer bitcoin to another user, the sender must first request a Bitcoin address from the recipient. The sender then uses his or her Bitcoin wallet software to create a proposed transaction that is confirmed and settles when included in the Blockchain. The transaction would reduce the amount of bitcoin allocated to the sender's address and increase the amount allocated to the recipient's address, in each case by the amount of bitcoin desired to be transferred. The transaction is completely digital in nature, similar to a file on a computer, and it can be sent to other computers participating in the Bitcoin network; however, the use of cryptographic verification is believed to prevent the ability to duplicate or counterfeit bitcoin.

Bitcoin Protocol

The Bitcoin protocol is built using open source software allowing for any developer to review the underlying code and suggest changes. There is no official company or group responsible for making modifications to Bitcoin. There are, however, a number of individual developers that regularly contribute to the reference software known as ''Bitcoin Core,'' a specific distribution of Bitcoin software that provides the *de-facto* standard for the Bitcoin protocol.

Significant changes to the Bitcoin protocol are typically accomplished through a so-called ''Bitcoin Improvement Proposal'' or BIP. Such proposals are generally posted on websites, and the proposals explain technical requirements for the protocol change as well as reasons why the change should be accepted by users. Because Bitcoin has no central authority, updating the reference software's Bitcoin protocol will not immediately change the Bitcoin network's operations. Instead, the implementation of a change is achieved by users (including transaction validators known as ''miners'') downloading and running the updated versions of Bitcoin Core or other Bitcoin software that abides by the new Bitcoin protocol. Users and miners must accept any changes made to the Bitcoin source code by downloading a version of their Bitcoin software that incorporates the proposed modification of the Bitcoin network's source code. A modification of the Bitcoin network's source code or protocol is only effective with respect to those Bitcoin users and miners who download it. If an incompatible modification is accepted by a less than overwhelming percentage of users and miners, a division in the Bitcoin network will occur such that one network will run the pre-modification source code and the other network will run the modified source code. Such a division is known as a ''fork'' in the Bitcoin network.

Bitcoin Transactions

A bitcoin transaction is similar in concept to an irreversible digital check. The transaction contains the sender's bitcoin address, the recipient's bitcoin address, the amount of bitcoin to be sent, a transaction fee and the sender's digital signature. Bitcoin transactions are secured by cryptography known as ''public-private key cryptography,'' represented by the bitcoin addresses and digital signature in a transaction's data file. Each Bitcoin network address, or wallet, is associated with a unique ''public key'' and ''private key'' pair, both of which are lengthy alphanumeric codes, derived together and possessing a unique relationship.

The use of key pairs is a cornerstone of the Bitcoin network technology. This is because the use of a private key is the only mechanism by which a bitcoin transaction can be signed. If a private key is lost, the corresponding bitcoin is thereafter permanently non-transferable. Moreover, the theft of a private key provides the thief immediate and unfettered access to the corresponding bitcoin. Bitcoin users must therefore understand that in this regard, bitcoin is similar to cash: That is, the person or entity in control of the private key corresponding to a particular quantity of bitcoin has *de facto* control of the bitcoin.

The public key is visible to the public and analogous to the Bitcoin network address. The private key is a secret and is used to digitally sign a transaction in a way that proves the transaction has been signed by the holder of the public-private key pair, and without having to reveal the private key. A user's private key must be kept safe in accordance with appropriate controls and procedures to ensure it is used only for legitimate and intended transactions. If an unauthorized third person learns of a user's private key, that third person could apply the user's digital signature without authorization and send the user's bitcoin to their or another bitcoin address, thereby stealing the user's bitcoin. Similarly, if a user loses his private key and cannot restore such access (*e.g.,* through a backup), the user may permanently lose access to the bitcoin associated with that private key and bitcoin address.

To prevent the possibility of double-spending of bitcoin, each validated transaction is recorded, time stamped and publicly displayed in a ''block'' in the Blockchain, which is publicly available. Thus, the Bitcoin network provides confirmation against double-spending by memorializing every transaction in the Blockchain, which is publicly accessible and downloaded in part or in whole by all users of the Bitcoin network software program. Any user may validate, through their Bitcoin wallet or a Blockchain explorer, that each transaction in the Bitcoin network was authorized by the holder of the applicable private key, and Bitcoin network mining software consistent with reference software requirements validates each such transaction before including it in the Blockchain. This cryptographic security ensures that bitcoin transactions may not generally be counterfeited, although it does not protect against the ''real world'' theft or coercion of use of a Bitcoin user's private key, including the hacking of a Bitcoin user's computer or a service provider's systems.

A Bitcoin transaction between two parties is recorded if included in a valid block added to the Blockchain, when that block is accepted as valid through consensus formation among Bitcoin network participants. A block is validated by confirming the cryptographic hash value included in the block's data and by the block's addition to the longest confirmed Blockchain on the Bitcoin network. For a transaction, inclusion in a block in the Blockchain constitutes a ''confirmation'' of validity. As each block contains a reference to the immediately preceding block, additional blocks appended to and incorporated into the Blockchain constitute additional confirmations of the transactions in such prior blocks, and a transaction included in a block for the first time is confirmed once against double-spending. This layered confirmation process makes changing historical blocks (and reversing transactions) exponentially more difficult the further back one goes in the Blockchain.

The process by which bitcoin are created and bitcoin transactions are verified is called ''mining.'' To begin mining, a user, or ''miner,'' can download and run a mining ''client,'' which, like regular Bitcoin network software programs, turns the user's computer into a ''node'' on the Bitcoin network, and in this case has the ability to validate transactions and add new blocks of transactions to the Blockchain.

Miners, through the use of the bitcoin software program, engage in a set of prescribed, complex mathematical calculations in order to verify transactions and compete for the right to add a block of verified transactions to the Blockchain and thereby confirm bitcoin transactions included in that block's data. The miner who successfully ''solves'' the complex mathematical calculations has the right to add a block of transactions to the Blockchain and is then rewarded by a grant of bitcoin, known as a ''coinbase,'' plus any transaction fees paid for the transactions included in such block. Bitcoin is created and allocated by the Bitcoin network protocol and distributed through mining, subject to a strict, well-known issuance schedule. The supply of bitcoin is programmatically limited to 21 million bitcoin in total. As of March 1, 2021, approximately 18,643,000 bitcoin had been mined.

Confirmed and validated bitcoin transactions are recorded in blocks added to the Blockchain. Each block contains the details of some or all of the most recent transactions that are not memorialized in prior blocks, as well as a record of the award of bitcoin to the miner who added the new block. Each unique block can only be solved and added to the Blockchain by one miner, therefore, all individual miners and mining pools on the Bitcoin network must engage in a competitive process of constantly increasing their computing power to improve their likelihood of solving for new blocks. As more miners join the Bitcoin network and its processing power increases, the Bitcoin network adjusts the complexity of a block-solving equation to maintain a predetermined pace of adding a new block to the Blockchain approximately every ten minutes.

The Bitcoin Market and Bitcoin Trading Platforms

In addition to using bitcoin to engage in transactions, investors may purchase and sell bitcoin to speculate as to the value of bitcoin in the bitcoin market, or as a long-term investment to diversify their portfolio. The value of bitcoin within the market is determined, in part, by (i) the supply of and demand for bitcoin in the bitcoin market, (ii) market expectations for the expansion of investor interest in bitcoin and the adoption of bitcoin by users, (iii) the number of merchants that accept bitcoin as a form of payment, and (iv) the volume of private end-user-to-end-user transactions.

Although the value of bitcoin is determined by the value that two transacting market participants place on bitcoin through their transaction, the most common means of determining a reference value is by surveying one or more trading platforms where secondary markets for bitcoin exist. The most prominent bitcoin trading platforms are often referred to as ''exchanges'', although they neither report trade information nor are they regulated in the same way as a national securities exchange. As such, there is some difference in the form, transparency and reliability of trading data from bitcoin trading platforms. Generally speaking, bitcoin data is available from these trading platforms with publicly disclosed valuations for each executed trade, measured against a fiat currency such as the US Dollar or Euro, or against another digital asset (for example, bitcoin trades against the US Dollar are reflected in the ''USD–BTC Pair'').

Currently, there are many bitcoin trading platforms operating worldwide and trading platforms represent a substantial percentage of bitcoin buying and selling activity, and, therefore, provide large data sets for the market valuation of bitcoin. A bitcoin trading platform provides investors with a way to purchase and sell bitcoin, similar to stock exchanges like the New York Stock Exchange or NASDAQ, which provide ways for investors to buy stocks and bonds in the so-called ''secondary market.'' Unlike stock exchanges, which are regulated to monitor securities trading activity, bitcoin trading platforms are largely regulated as money services businesses (or a foreign regulatory equivalent) and are required to monitor for and detect money-laundering and other illicit financing activities that may take place on their platform. Bitcoin trading platforms operate websites designed to permit investors to open accounts with the trading platform and then purchase and sell bitcoin.

As with conventional stock exchanges, an investor opening a trading account and wishing to transact at a bitcoin trading platform must deposit an accepted government-issued currency into their account, or a previously acquired digital asset. The process of establishing an account with a bitcoin trading platform and trading bitcoin is different from, and should not be confused with, the process of users sending bitcoin from one bitcoin address to another bitcoin address, such as to pay for goods and services. This latter process is an activity that occurs wholly within the confines of the Bitcoin network, while the former is an activity that occurs largely on private websites and databases owned by the trading platform.

In addition to the bitcoin trading platforms that provide spot markets for bitcoin, an OTC trading market has emerged for digital assets. The bitcoin OTC market demonstrates flexibility in terms of quotes, price, size, and other factors. The OTC market has no formal structure and no open-outcry meeting place, and typically involves bilateral agreements on a principal-to-principal basis. Parties engaging in OTC transactions will agree upon a price—often via phone, email, or chat—and then one of the two parties will initiate the transaction. For example, a seller of bitcoin could initiate the transaction by sending the bitcoin to the buyer's bitcoin address. The buyer would then wire US Dollars to the seller's bank account. OTC trading tends to occur in large blocks of bitcoin. All risks and issues related to creditworthiness are between the parties directly involved in the transaction. OTC market participants include institutional entities, such as hedge funds, family offices, private wealth managers, high-net-worth individuals that trade bitcoin on a proprietary basis, and brokers that offer two-sided liquidity for bitcoin.

Beyond the spot bitcoin trading platforms and the OTC market, a number of unregulated bitcoin derivatives trading platforms exist that offer traders the ability to gain leveraged and/or short exposure to the price of bitcoin through perpetual futures, quarterly futures, and other derivative contracts.

Finally, the trading of regulated bitcoin futures contracts launched on the CME in December 2017.[13] A further discussion of the CME bitcoin futures market (''CME Market'') is included in the section entitled ''Standard for Approval—The CME Market,'' below.

Authorized Participants will have the option of purchasing and selling bitcoin used in Creation Unit transactions with the Trust either on bitcoin trading platforms, in the OTC markets, or in direct bilateral transactions. In addition, Authorized Participants may utilize futures to hedge bitcoin exposure relating to the purchase and redemption of Creation Units.

Valuation of the Trust's Bitcoin

The CME US Reference Rate, CME UK Reference Rate and CME Bitcoin Real Time Price

According to the Registration Statement, the CME UK Reference Rate was established by the CME Group and

[13] *See* note 25, *infra.*

Crypto Facilities Ltd. to be used in the creation of financial products tied to bitcoin. The CME UK Reference Rate is fixed once per day at 4:00 p.m. London time, based on the methodology set forth below and applying data from constituent trading platforms (''Constituent Platforms''). The CME US Reference Rate was introduced in February 2021 and is designed to apply the CME UK Reference Rate methodology, but with a fix once per day at 4:00 p.m. Eastern time (''E.T.''). Although the CME UK Reference Rate has a longer history and is used to settle bitcoin futures on the CME Market, the Trust has determined to utilize the CME US Reference Rate to establish the NAV because the CME US Reference Rate is calculated as of the same time as the NAV and is based on the same methodology and data sources as the CME UK Reference Rate.

The CME Group and Crypto Facilities Ltd. also publish a continuous real-time bitcoin price index, known as the ''CME Bitcoin Real Time Price,'' using data from the Constituent Platforms.

The CME US Reference Rate, CME UK Reference Rate and CME Bitcoin Real Time Price are administered by Crypto Facilities Ltd., with the selection of Constituent Platforms performed by an oversight committee.[14] A trading platform is eligible to be selected as a Constituent Platform if it facilitates spot trading of bitcoin against the USD–BTC Pair and makes trade data and order data available through an Automatic Programming Interface with sufficient reliability, detail and timeliness. Additional initial and continuing eligibility requirements apply to the Constituent Platforms.

Each of the CME US Reference Rate, which has been calculated and published since February 2021, and CME UK Reference Rate, which has been calculated and published since November 2016, aggregates during a calculation window the trade flow of several spot bitcoin trading platforms into the US Dollar price of one bitcoin as of their respective calculation time. Specifically, the CME US Reference Rate is calculated based on the ''Relevant Transactions'' (as defined below) of each of its Constituent Platforms, which are currently Bitstamp, Coinbase, Gemini, itBit and Kraken, as follows:

1. All Relevant Transactions are added to a joint list, recording the trade price and size for each transaction.

2. The list is partitioned into a number of equally-sized time intervals.

3. For each partition separately, the volume-weighted median trade price is calculated from the trade prices and sizes of all Relevant Transactions. A volume-weighted median differs from a standard median in that a weighting factor, in this case trade size, is factored into the calculation.

4. The CME US Reference Rate or CME UK Reference Rate, as applicable, is then determined by the equally-weighted average of the volume-weighted medians of all partitions.

The CME Bitcoin Real Time Price uses similar data sources, but is calculated once per second based on the weighted mid-price-volume curve, which is a measure of the active bid and ask volume present on a Constituent Platform's order book.

The CME US Reference Rate, CME UK Reference Rate, and CME Bitcoin Real Time Price do not include any bitcoin futures prices in their respective methodologies. A ''Relevant Transaction'' is any ''cryptocurrency versus legal tender spot trade that occurs during the TWAP [Time Weighted Average Price] Period'' on a Constituent Platform in the USD–BTC Pair that is reported and disseminated by Crypto Facilities Ltd., as calculation agent for the CME US Reference Rate, CME UK Reference Rate and CME Bitcoin Real Time Price.

Net Asset Value

Under normal circumstances, the Trust's only asset will be bitcoin. The Trust's bitcoin are carried, for financial statement purposes, at fair value, as required by the U.S. generally accepted accounting principles (''GAAP''). The Trust's NAV and NAV per Share will be determined by the Administrator once each Exchange trading day as of 4:00 p.m. E.T., or as soon thereafter as practicable. The Administrator will calculate the NAV by multiplying the number of bitcoin held by the Trust by the CME US Reference Rate for such day, and subtracting the accrued but unpaid expenses and liabilities of the Trust. The NAV per Share is calculated by dividing the NAV by the number of Shares then outstanding. The Administrator will determine the price of the Trust's bitcoin by reference to the CME US Reference Rate, which is published and calculated as set forth above.

Intraday Trust Value

In order to provide updated pricing information relating to the Shares for use by investors and market professionals throughout the domestic trading day, the Exchange will calculate and disseminate throughout the core trading session, every 15 seconds each trading day, an intraday trust value (''ITV''). The ITV will be calculated throughout the trading day by using the prior day's holdings at close of business and the most recently reported price level of the CME Bitcoin Real Time Price as reported by Bloomberg, L.P. or another reporting service, or another price of bitcoin derived from updated bids and offers indicative of the spot price of bitcoin. The ITV will be widely disseminated by one or more major market data vendors during the NYSE Arca Core Trading Session.

Creation and Redemption of Shares; In-Kind Transaction Activity

The Trust Shares

According to the Registration Statement, the Shares shall represent undivided beneficial ownership of the Trust. The Trust creates and redeems Shares from time to time, but only in one or more Creation Units. A Creation Unit is only made in exchange for delivery to the Trust or the distribution by the Trust of the amount of bitcoin represented by the Creation Unit being created or redeemed, the amount of which is representative of the combined NAV of the number of Shares included in the Creation Units being created or redeemed determined as of 4:00 p.m. E.T. on the day the order to create or redeem Creation Units is properly received. Except when aggregated in Creation Units or under extraordinary circumstances permitted under the Trust Agreement, the Shares are not redeemable securities. A Creation Unit will initially consist of at least 25,000 Shares, but may be subject to change.

Authorized Participants are the only persons that may place orders to create and redeem Creation Units. Authorized Participants must be (i) registered broker-dealers or other securities market participants, such as banks and other financial institutions, that are not required to register as broker-dealers to engage in securities transactions described below, and (ii) Depository Trust Company (''DTC'') Participants. To become an Authorized Participant, a person must enter into an Authorized Participant Agreement with the Trust and/or the Trust's marketing agent (the ''Marketing Agent'').

[14] This summary does not represent a complete description of the CME US Reference Rate, the CME UK Reference Rate and CME Bitcoin Real Time Price. Additional information on administration and methodologies, may be found at CF Benchmarks' website, available at *https://www.cfbenchmarks.com/indices/XBTUSD_US_RR, https://www.cfbenchmarks.com/indices/BRR,* and *https://www.cfbenchmarks.com/indices/BRTI.* The CME US Reference Rate, the CME UK Reference Rate and CME Bitcoin Real Time Price are registered benchmarks under the European Benchmarks Regulation.

Creation Procedures

On any business day, an Authorized Participant may create Shares by placing an order to purchase one or more Creation Units with the Transfer Agent through the Marketing Agent. Such orders are subject to approval by the Marketing Agent and the Transfer Agent. For purposes of processing creation and redemption orders, a ''business day'' means any day other than a day when the Exchange is closed for regular trading. To be processed on the date submitted, creation orders generally must be placed before 4 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier. The day on which an order is received by the Transfer Agent and approved by the Marketing Agent, is considered the creation order date.

All Creation Units are processed in-kind. By placing a creation order, an Authorized Participant agrees to deposit, or cause to be deposited, bitcoin with the Trust by initiating a Bitcoin transaction to a Bitcoin network address identified by the Trust. Prior to the delivery of Creation Units for a creation order, the Authorized Participant must also have wired to the Transfer Agent the nonrefundable transaction fee due for the creation order. Authorized Participants may not withdraw a creation request. If an Authorized Participant fails to consummate the foregoing, the order may be cancelled.

The total creation deposit amount required to create each Creation Unit is an amount of bitcoin that is in the same proportion to the total assets of the Trust, net of accrued expenses and other liabilities, on the date the order to purchase is properly received, as the number of Shares to be created under the creation order is in proportion to the total number of Shares outstanding on the date the order is received. The Sponsor causes to be published each business day morning, prior to the commencement of trading on the Exchange, the amount of bitcoin that will be required to be deposited in exchange for one Creation Unit for such business day.

Redemption Procedures

According to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Creation Units mirror the procedures for the creation of Creation Units. On any business day, an Authorized Participant may place an order with the Transfer Agent through the Marketing Agent to redeem one or more Creation Units. To be processed on the date submitted, redemption orders generally must be placed before 4 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier. A redemption order will be effective on the date it is received by the Administrator and approved by the Marketing Agent (''Redemption Order Date''). The redemption procedures allow Authorized Participants to redeem Creation Units and do not entitle an individual shareholder to redeem any Shares in an amount less than a Creation Unit, or to redeem Creation Units other than through an Authorized Participant.

The redemption distribution from the Trust will consist of a transfer to the redeeming Authorized Participant, or its agent, of an amount of bitcoin representing the amount of bitcoin held by the Trust evidenced by the Shares being redeemed. The redemption distribution amount is determined in the same manner as the determination of the bitcoin deposit amount discussed above. The Sponsor causes to be published each business day morning, prior to the commencement of trading on the Exchange, the redemption distribution amount relating to a Creation Unit applicable for such business day.

The redemption distribution due from the Trust will be delivered once the Transfer Agent notifies the Bitcoin Custodian and the Sponsor that the Authorized Participant has delivered the Shares represented by the Creation Units to be redeemed to the Trust's DTC account. If the Trust's DTC account has not been credited with all of the Shares of the Creation Units to be redeemed, the redemption distribution will be delayed until such time as the Transfer Agent confirms receipt of all such Shares.

Once the Transfer Agent notifies the Bitcoin Custodian and the Sponsor that the Shares have been received in the Trust's DTC account, the Sponsor will instruct the Bitcoin Custodian to transfer the redemption bitcoin amount from the Trust Bitcoin Account to the Authorized Participant's bitcoin custody account. All redemption orders are processed in-kind. By placing a redemption order, an Authorized Participant agrees to receive bitcoin. If an Authorized Participant fails to consummate the foregoing, the order may be cancelled.

Fee Accrual

According to the Registration Statement, the only ordinary expense of the Trust is expected to be the Sponsor's fee, which shall accrue daily in bitcoin and be payable monthly in bitcoin.

Impact of the Exclusive Use of In-Kind Creations, Redemptions and Fee Accruals

The Sponsor believes that the exclusive use of in-kind creations, redemptions and fee accruals, in all situations except when the Trust is required to liquidate or to pay extraordinary expenses, provides long-term investors in the Trust with redundant but strong protection. The in-kind structure ensures that the Trust maintains the appropriate amount of bitcoin-per-Share in all scenarios, regardless of the US Dollar calculation of NAV or the CME US Reference Rate.

Standard for Approval

How the Exchange's Proposed Rule Conforms to the Requirements of the Act

To date, the Commission has considered and published disapproval orders relating to numerous proposed exchange-traded products (''ETPs'') providing exposure to the price of bitcoin, including a prior proposal in respect of the Trust.[15] In each of these disapprovals, the Commission

[15] *See, e.g.,* Order Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, to BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, to List and Trade Shares Issued by the Winklevoss Bitcoin Trust, Release No. 34–80206 (Mar. 10, 2017), 82 FR 14076 (March 16, 2017); Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Shares of the SolidX Bitcoin Trust under NYSE Arca Equities Rule 8.201, Release No. 34–80319 (Mar. 28, 2017), 82 FR 16247 (April 3, 2017); Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, to List and Trade Shares of the Winklevoss Bitcoin Trust (''Second Winklevoss Order''), Release No. 34–83723 (July 26, 2018), 83 FR 37579 (August 1, 2018); Order Disapproving a Proposed Rule Change to List and Trade the Shares of the ProShares Bitcoin ETF and the ProShares Short Bitcoin ETF, Release No. 34–83904 (Aug. 22, 2018), 83 FR 43934 (August 28, 2018); Order Disapproving a Proposed Rule Change Relating to Listing and Trading of the Direxion Daily Bitcoin Shares, Release No. 34–83912 (Aug. 22, 2018), 83 FR 43912 (August 28, 2018); Order Disapproving a Proposed Rule Change to List and Trade the Shares of the GraniteShares Bitcoin ETF and the GraniteShares Short Bitcoin ETF (''GraniteShares Order''), Release No. 34–83913 (Aug. 22, 2018), 83 FR 43923 (August 28, 2018); Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Shares of the Bitwise Bitcoin ETF Trust Under NYSE Arca Rule 8.201–E (''Bitwise Order''), Release No. 34–87267 (Oct. 9, 2019), 84 FR 55382 (October 16, 2019) (subsequently withdrawn while the delegated action was under review by the Commission on Jan. 13, 2020; see SR–NYSEArca–2019–01, 85 FR 73819 (November 19, 2020); Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) and to List and Trade Shares of the United States Bitcoin and Treasury Investment Trust Under NYSE Arca Rule 8.201–E, Release No. 34–88284 (February 26, 2020), 85 FR 12595 (March 3, 2020) (''USBT Order'').

determined that the filing failed to demonstrate that the proposal was consistent with the requirements of Section 6(b)(5) of the Act [16] and, in particular, the requirement that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices.[17]

The principal means by which a national securities exchange may satisfy the requirements of Section 6(b)(5) of the Act [18] is through entry into comprehensive surveillance-sharing agreements that ''help to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making [the ETP] less readily susceptible to manipulation.'' [19] These comprehensive surveillance-sharing agreements enable the Exchange to obtain information necessary to detect and deter market manipulation and other trading abuses upon request of information from one party to the other.[20]

In the Second Winklevoss Order, the Commission laid out both the importance and definition of a surveilled, regulated market of significant size. Specifically, the Commission explained that:

> [for all] commodity-trust ETPs approved to date for listing and trading, there has been in every case at least one significant, regulated market for trading futures on the underlying commodity—whether gold, silver, platinum, palladium, or copper—and the ETP listing exchange has entered into surveillance-sharing agreements with, or held Intermarket Surveillance Group membership in common with, that market.[21]

Further, on an illustrative and not exclusive basis, the Commission interpreted the terms 'significant market' and 'market of significant size' to include a market (or group of markets) as to which (a) there is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to successfully manipulate the ETP, so that a surveillance-sharing agreement would assist the ETP listing market in detecting and deterring misconduct, and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[22]

This two-prong definition of the term ''significant market'' came to be known as the ''Winklevoss Standard,'' and will be referred to as such in this proposal. In the Bitwise Order, the Commission built upon the Winklevoss Standard and provided important additional guidance on how a listing exchange might demonstrate that a bitcoin derivatives market meets the Commission's definition of ''significant'':

> [T]he lead-lag relationship between the bitcoin futures market and the spot market . . . is central to understanding whether it is reasonably likely that a would-be manipulator of the ETP would need to trade on the bitcoin futures market to successfully manipulate prices on those spot platforms that feed into the proposed ETP's pricing mechanism. In particular, if the spot market leads the futures market, this would indicate that it would not be necessary to trade on the futures market to manipulate the proposed ETP, even if arbitrage worked efficiently, because the futures price would move to meet the spot price.[23]

In response to this, in the rule proposal disapproved in the USBT Order, the sponsor and listing exchange attempted to establish that the CME Market satisfied the requirements of a regulated market of significant size as laid out in the Bitwise Order. The rule change proposal referenced, among other items, a statistical analysis conducted by the Sponsor examining whether the CME Market led the bitcoin spot market from a price discovery perspective. The Commission rejected this argument for specific reasons, noting (among other things) that:

> the [s]ponsor has not provided sufficient details supporting this conclusion, and unquestioning reliance by the Commission on representations in the record is an insufficient basis for approving a proposed rule change in circumstances where, as here, the proponent's assertion would form such an integral role in the Commission's analysis and the assertion is subject to several challenges. For example, the [s]ponsor has not provided sufficient information explaining its underlying analysis, including detailed information on the analytic methodology used, the specific time period analyzed, or any information that would enable the Commission to evaluate whether the findings are statistically significant or time varying.

Nonetheless, the Commission made it clear that a future ETP application could potentially meet the Winklevoss Standard through identifying a regulated market of significant size. Specifically, the Commission noted that an existing or new bitcoin futures market could achieve significant size such that an Exchange might demonstrate, through a surveillance sharing agreement, that a proposed rule change could satisfy the requirements of the Act.[24]

---

[16] 15 U.S.C. 78f(b)(5).

[17] In the Second Winklevoss Order, Bitwise Order and USBT Order, the Commission determined that the proposing exchange had not established that bitcoin markets were uniquely resistant to fraud or manipulation, which unique resistance might provide protections such that the proposing exchange ''would not necessarily need to enter into a surveillance sharing agreement with a regulated significant market.'' Second Winklevoss Order 83 FR at 37591, Bitwise Order 84 FR at 55386, and USBT Order 85 FR at 12597. In the Second Winklevoss Order, GraniteShares Order, Bitwise Order and USBT Order, the Commission determined that, while the existing, regulated derivatives markets (including the CME Market) was a regulated market, the proposing exchanges had not demonstrated that the regulated derivatives markets had achieved significant size. *See* Second Winklevoss Order 83 FR at 37601, Bitwise Order 84 FR at 55410, and USBT Order 85 FR at 12597. In the Second Winklevoss Order, Bitwise Order and USBT Order, the Commission determined that a proposing exchange had established neither that it had a surveillance sharing agreement with a group of underlying bitcoin trading platforms, nor that such bitcoin trading platforms constituted regulated markets of significant size with respect to bitcoin. *See* Second Winklevoss Order 83 FR 37590–37591, Bitwise Order 84 FR at 55407 and USBT Order 85 FR at 12615.

[18] 15 U.S.C. 78f(b)(5).

[19] *See* Notice of Filing and Order Granting Immediate Effectiveness of Proposed Rule Change by American Stock Exchange, Incorporated Relating to the Listing of Commodity Indexed Preferred or Debt Securities, Exchange Act Release No. 35518 (Mar. 21, 1995), 60 FR 15804, 15807, 15807 n.21 (Mar. 27, 1995) (SR–Amex–94–30). *See also* Notice of Filing and Order Granting Immediate Effectiveness of Proposed Rule Change by American Stock Exchange, Incorporated Relating to the Listing of Commodity Indexed Preferred or Debt Securities, Exchange Act Release No. 36885 (Feb. 26, 1996), 61 FR 8315, 8319 n.17 (Mar. 4, 1996) (SR–Amex–95–50).

[20] The Commission has described a comprehensive surveillance sharing agreement as including an agreement under which a self-regulatory organization may expressly obtain information on (i) market trading activity, (ii) clearing activity and (iii) customer identity, and where existing rules, laws or practices would not impede access to such information. *See* Letter from Brandon Becker, Director, Division of Market Regulation, Commission, to Gerard D. O'Connell, Chairman, Intermarket Surveillance Group (June 3, 1994), available at *https://www.sec.gov/divisions/marketreg/mr-noaction/isg060394.htm* (''ISG Letter'').

The Commission has emphasized the importance of surveillance sharing agreements, noting that ''[s]uch agreements provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' Amendment to Rule Filing Requirements for Self-Regulatory Organizations Regarding New Derivative Securities Products, Exchange Act Release No. 40761 (Dec. 8, 1998), 63 FR 70952, 70954, 70959 (Dec. 22, 1998) (File No. S7–13–98) (''NDSP Adopting Release'').

[21] Second Winklevoss Order, 83 FR 37594.

[22] *Id.* The Commission further noted that ''[t]here could be other types of ''significant markets'' and ''markets of significant size,'' but this definition is an example that will provide guidance to market participants.''

[23] Bitwise Order, 84 FR at 55411. *See also* USBT Order 85 FR at 12612.

[24] In past disapproval orders for bitcoin ETPs, the Commission acknowledged that the CME, and therefore the CME Market, is regulated by the CFTC, but that the proposing exchanges had not demonstrated that the CME Market represented a significant market. *See* note17, *supra.*

As discussed in detail below, the Sponsor's analysis demonstrates that the Exchange can meet the burden presented by Section 6(b)(5) of the Act and, in particular, the requirement that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices by demonstrating that the CME Market (i) is a regulated market; (ii) participates in a surveillance sharing agreement with the Exchange; and (iii) satisfies the Commission's ''significant market'' definition under the Winklevoss Standard.

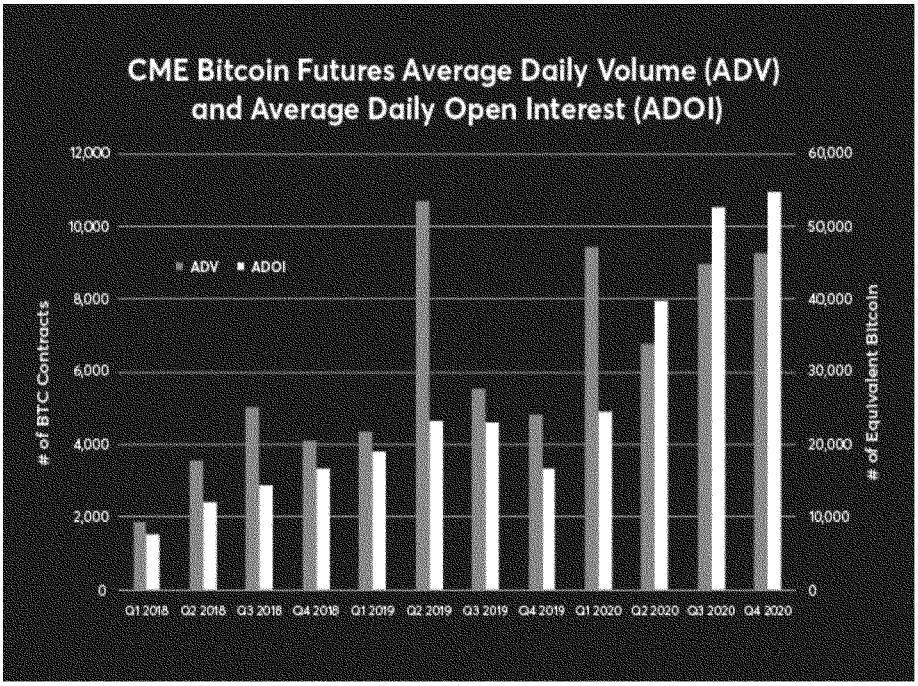
The CME Market

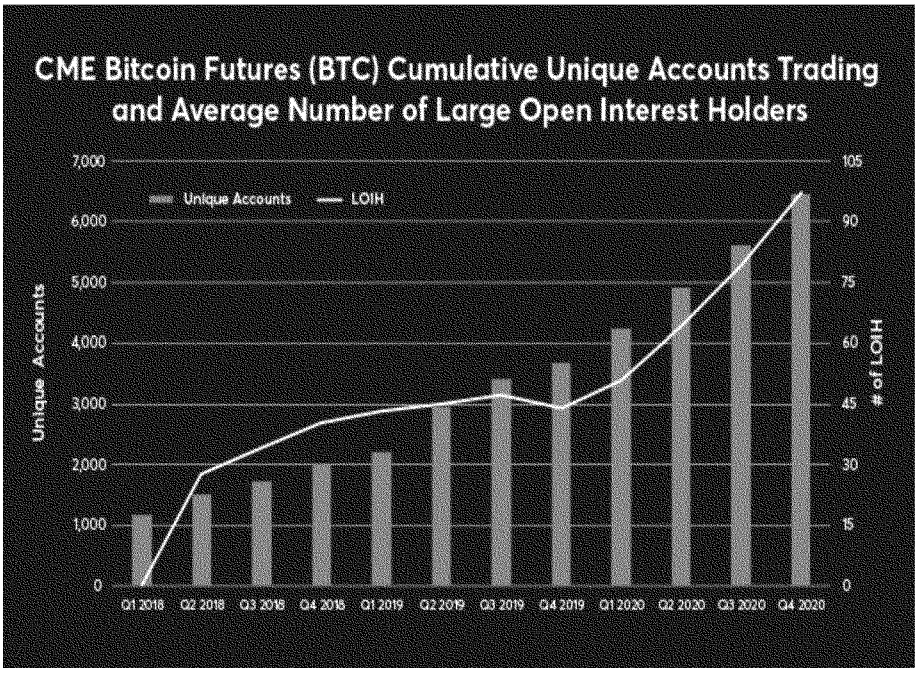
The CME Group announced the planned launch of bitcoin futures on October 31, 2017, the trading of which began on December 17, 2017.[25] The futures are cash-settled based on the CME UK Reference Rate, the methodology of which is described above. Since inception, the CME Market has seen significant growth in average daily volume traded, open interest, and the number of large participants, as demonstrated in the charts below.[26]

BILLING CODE 8011–01–P

[25] ''CME Group Announces Launch of Bitcoin Futures,'' October 31, 2017, available at *https://www.cmegroup.com/media-room/press-releases/2017/10/31/cme_group_announceslaunchofbitcoinfutures.html.* At the same time as the launch of the CME Market, the Cboe Futures Exchange, LLC announced and subsequently launched Cboe bitcoin futures. *See* ''CFE to Commence Trading in Cboe Bitcoin (USD) Futures Soon,'' December 01, 2017, available at *cdn.cboe.com/resources/release_notes/2017/Cboe-Bitcoin-USD-Futures-Launch-Notification.pdf.* Each future was cash settled, with the CME Market tracking the CME UK Reference Rate and the Cboe bitcoin futures tracking a bitcoin trading platform daily auction price. The Cboe Futures Exchange, LLC subsequently discontinued its bitcoin futures market effective June 2019. ''Cboe put the brakes on bitcoin futures,'' March 15, 2019, available at *https://www.reuters.com/article/us-cboe-bitcoin/cboe-puts-the-brakes-on-bitcoin-futures-idUSKCN1QW261.* The Trust uses the CME US Reference Rate to calculate its NAV.

[26] CME Group, CME bitcoin futures celebrate third anniversary: The year in review (December 31, 2020). ''Cumulative unique accounts'' refers to the number of unique accounts that had, prior to or on the date measured, entered on a CME Group venue into at least one bitcoin futures contract. ''Large open interest holders'' refers to a party that has entered into at least twenty-five (25) bitcoin futures contracts that have not yet offset by delivery.





BILLING CODE 8011–01–C

The Commission has previously recognized that the CME Market qualifies as a regulated market [27] and that surveillance-sharing agreements are in place with the CME by virtue of common membership in the Intermarket Surveillance Group (''ISG'').[28] Both the Exchange and the CME are members of the ISG.[29]

The CME Market Meets the Commission's Definition of a ''Significant Market''

As the following analysis based on the Sponsor's research demonstrates, the CME Market satisfies the Commission's definition of a ''significant market.'' [30] Specifically, the Sponsor's analysis shows that prices on the CME Market consistently lead prices on the bitcoin spot market and the unregulated bitcoin

[27] *See* Bitwise Order, 84 FR at 55410, n. 456 (''the Commission recognizes that the CFTC comprehensively regulates CME . . .''). *See also* Second Winklevoss Order, 83 FR at 37594 & at note 202, GraniteShares Order 83 FR at 43929, and USBT Order, 85 FR at 12597.

[28] As the Commission explained in the Bitwise Order, common membership between a proposing exchange and a futures market such as the CME (and therefore the CME Market) in the ISG functions as ''the equivalent of a comprehensive surveillance sharing agreement.'' *See* Bitwise Order, 84 FR at 55410, n.456.

[29] A list of the current members of ISG is available at *https://www.isgportal.org.*

[30] This proposal details the data sources, time periods, and statistical methods used by the Sponsor to demonstrate that the CME Market qualifies as a significant market relative to the Trust. As such, the surveillance sharing agreement, in place through common membership in the ISG, will allow the Exchange to detect and deter potential manipulations and other misconduct and to satisfy its obligations under Section 6(b)(5) of the Act. *See* 15 U.S.C. 78f(b)(5).

futures market, such that it is reasonably likely that a would-be manipulator of the ETP would need to trade bitcoin futures on the CME Market. The Sponsor's analysis also demonstrates that it is unlikely that trading in the ETP would be the predominant influence on prices in the CME Market.

Data Sources for Evaluating the Bitcoin Market

In evaluating whether the CME Market qualifies as a significant market, the Sponsor has engaged in an extensive research effort to evaluate the lead-lag relationship between the CME Market and both the bitcoin spot market and the unregulated bitcoin futures market. Given that lead-lag and price discovery research is sensitive to data quality, it was critical from the beginning that the Sponsor gather high-quality bitcoin trading data on a historical and an ongoing basis.

Bitcoin trading platforms exist in multiple countries and operate under a variety of regulatory regimes. There are generally no requirements for these platforms to provide data on their trading activity in a uniform fashion to a centralized database. As a result, there currently is no equivalent to the Consolidated Tape Association (''CTA'') in the US, which offers a single source of agreed upon trading data for publicly traded equities in the US.

Over the years, however, a variety of private data providers have emerged that consolidate trading data from large numbers of bitcoin trading platforms. The Sponsor undertook a detailed survey of these data providers in May 2020, evaluating them on metrics including data quality, trading platform coverage, cost, service quality, and reputation. The goal of this survey was to determine which provider or set of providers the Sponsor would use in its research.

The Sponsor cataloged bitcoin data providers commonly referenced in the industry, and supplemented this list by conducting broad web searches to identify additional bitcoin data providers and by consulting a third-party survey.[31] Aggregating these steps resulted in a total of 29 firms examined by the Sponsor, of which 14 offered the specific type of data (bitcoin tick data) needed to conduct lead-lag analysis. The Sponsor evaluated these 14 firms on four separate criteria:

- *Data coverage.* All else equal, more trading platforms are better than fewer.
- *Data quality.* Data gathered by third-party providers should match the actual activity that takes place on each trading platform, with as few errors as possible.
- *Cost.* The cost of licensing the data from a given provider should be reasonable.
- *Corporate Factors.* Available facts should give confidence that the provider in question will continue to operate in a robust manner over a meaningful period of time.

Data quality was weighted heavily in the assessment of data providers, as it has a direct impact on the output of price discovery research. Still, the other three factors were important as well. Based on this analysis, the Sponsor elected to use Coin Metrics as the core data provider. At the time, Coin Metrics offered coverage of 26 trading platforms, and had exceptionally high data quality based on the statistical analysis performed by the Sponsor.[32]

To supplement Coin Metrics' data, the Sponsor evaluated data providers that covered a large number (>100) of bitcoin trading platforms. Of these providers, CoinAPI scored the best on its four-factor evaluation system, including scoring well on data quality. Based on this analysis, the Sponsor elected to use CoinAPI data to supplement Coin Metrics data where necessary to conduct its analysis.

Data on the CME Market was obtained directly from the CME Group.

Winklevoss Standard Prong 1: Reasonable Likelihood

The first prong of the Winklevoss Standard requires demonstrating a reasonable likelihood that a person attempting to manipulate a bitcoin ETP would also have to trade on the CME Market.[33] In prior disapproval orders, the Commission stated that demonstrating a ''lead-lag relationship'' between prices on the CME Market and the underlying bitcoin spot market is ''central'' to understanding this reasonable likelihood.[34]

As detailed below, through extensive statistical analysis and careful consideration of third-party evaluations of these markets, the Sponsor has demonstrated that the CME Market leads the bitcoin spot market and the unregulated bitcoin futures market, such that it is reasonably likely that a person attempting to manipulate the ETP would also have to trade on the CME Market, thus satisfying the first prong of the Winklevoss Standard.

The Statistical Approaches to Demonstrating a Lead-Lag Relationship

The Sponsor conducted a detailed review of both academic and practitioner papers that focus on lead-lag relationships in financial markets. The literature review revealed that there are two primary approaches to conducting such analysis:

- *Information Share (IS)/Component Shares (CS) Price Discovery Analysis.* This type of analysis is based on the principle that there is a common ''efficient'' price for any asset being traded on multiple platforms. It allows you to construct a model of the relationship between different platforms by comparing their price series against this common efficient price, and testing which price series is faster to incorporate new information; and
- *Time-Shift Lead-Lag Analysis (TSLL).* TSLL is a more intuitive approach to evaluating lead-lag relationships between markets. It involves taking two time series of price data and offsetting (or ''shifting'') them against each other to determine what offset, or ''lag,'' produces the highest cross-correlation between the two series.

Both IS/CS price discovery analysis and TSLL have an extensive history in the financial literature, and each comes with its own strengths and weaknesses. As such, the Sponsor has evaluated the CME Market using both of the major academic approaches.

IC/CS Price Discovery Research on the Bitcoin Spot Market vs. the CME Market

Information share (IS) and component share (CS) are two variants of a core analytical approach to price discovery research that traces its roots back to 1995.[35] It is sometimes referred to in the literature as ''common efficient price''-based analysis, ''fundamental price''-based analysis, or simply ''price discovery'' analysis.

Price discovery analysis is based on the idea that, in a perfectly efficient

[31] *See* The Block, ''The State of Digital Asset Data and Infrastructure,'' May 14, 2020, available at *https://www.theblockcrypto.com/post/63689/research-report-the-state-of-the-digital-asset-data-and-infrastructure-commissioned-by-blockset.*

[32] For instance, in one portion of the study, the Sponsor downloaded the full record of trades (2,523,481 trades) directly from Bitfinex, a spot bitcoin trading platform, for the month of March 2020. It then compared these trades with data pulled from participating data providers, looking for three types of data errors: duplicated trades, erroneous trades, and missing trades. Coin Metrics had zero data errors; its competitors had between two and 4,929 errors in their data samples. The Sponsor repeated the analysis using trade data from Coinbase and LBank, two additional bitcoin trading platforms; Coin Metrics again had zero data errors.

[33] *See* note 22, *supra,* and accompanying text.

[34] *See* note 23, *supra,* and accompanying text.

[35] Hasbrouck, J. (1995), One security, many markets: Determining the contributions to price discovery. *The Journal of Finance,* 5050(4), 1175–1199. Gonzalo, J., and Granger, C. (1995), Estimation of common long-memory components in cointegrated systems. *Journal of Business & Economic Statistics,* 13(1), 27–35.

market, new information should be reflected simultaneously in the price of an asset as it trades on different platforms. In practice, however, this is not the case; some platforms move before others. In addition, some market moves are simply ''noise'' that do not reflect a change in the fundamental price at all. Price discovery analysis attempts to measure the speed and accuracy with which each trading platform incorporates new information into its price. Platforms that are faster to incorporate new information while being better at avoiding noise are considered to have a ''higher share'' of price discovery.

Despite the paired nature of IS/CS values, the convention in the literature is to present only one value in the results tables, leaving the other implied. The Sponsor followed that convention, only reporting the IS/CS value of the CME Market, as it is compared to each spot bitcoin trading platform. Therefore, an IS/CS value above 50% indicates that the CME Market leads price discovery compared with the spot bitcoin trading platform in question.

The Sponsor's review of the historical literature surrounding IS/CS price discovery analysis comparing the CME Market and the bitcoin spot market identified ten academic and practitioner studies evaluating the two markets, which are itemized and summarized in the table below (a single long horizontal table has been divided here into two parts).[36]

#	Title	Year	Authors
1	Bitcoin futures—What use are they?[37]	2018	Corbet, Lucey, et al.
2	Price discovery in bitcoin spot or futures?[38]	2019	Baur and Dimpfl.
3	An analysis of price discovery between bitcoin futures and spot markets[39]	2019	Kapar and Olmo.
4	Price discovery, high-frequency trading and jumps in bitcoin markets[40]	2019	Alexander and Heck.
5	What role do futures markets play in bitcoin pricing? Causality, cointegration and price discovery from a time-varying perspective[41].	2019	Hu, Hou, and Oxley.
6	The development of bitcoin futures: Exploring the interactions between cryptocurrency derivatives[42].	2019	Akyildirim, Corbet, et al.
7	Price discovery in bitcoin futures[43]	2020	Fassas, Papadamou, and Koulis.
8	The determinants of price discovery on bitcoin markets[44]	2020	Entrop, Frijns, and Seruset.
9	Bitcoin spot and futures market microstructure[45]	2020	Aleti and Mizrach.
10	Efficient price discovery in the bitcoin markets[46]	2020	Chang, Herrmann, and Cai.

#	Authors	CME IS (%)	CME CS (%)	Intervals	Time period	Result
1	Corbet, Lucey, et al	15	18	1 min	([47])	Spot leads.
2	Baur and Dimpfl	14	14	15 min	12/18/2017–10/18/2018	Spot leads.
3	Kapar and Olmo	89		1 day	12/18/2017–05/16/2018	Futures lead.
4	Alexander and Heck	66	73	30 min	12/18/2017–06/30/2019	Futures lead.
5	Hu, Hou, and Oxley	55		1 day	12/18/2017–06/16/2019	Futures lead.
6	Akyildirim, Corbet, et al	91–97	67–87	1/5/10/15/30/60 min	12/18/2017–02/26/2018	Futures lead.
7	Fassas, Papadamou, and Koulis	97	77	1 hour	01/01/2018–12/31/2018	Futures lead.
8	Entrop, Frijns, and Seruset	50	53	1 min	12/18/2017–03/31/2019	Mixed.
9	Aleti and Mizrach	53–55	68–91	5 min	01/02/2019–02/28/2019	Futures lead.
10	Chang, Herrmann, and Cai		63	1 min	07/01/2019–12/31/2019	Futures lead.

As the above table indicates, a majority of papers support the notion that the CME Market leads price discovery using IS and/or CS when compared to the bitcoin spot market.

Because the methodologies and findings of each paper are nuanced, the Sponsor examined each paper in detail. The analysis begins with the majority opinion that the CME Market leads the bitcoin spot market:

- Kapar and Olmo (2019) was the first paper to assert that, contrary to the two studies that came before it (Corbet et al. (2018) and Baur and Dimpfl (2019)), the data ''clearly reflect the leadership of the Bitcoin futures markets with respect to the spot market.'' The paper attributed 89% of IS to the futures market.

Kapar and Olmo (2019) relies on daily price data, which means the study may not capture intraday information flow. Still, long-run relationships are relevant in holistically describing the relative strength one market has compared with another. The authors illustrated the importance of long-run relationships, saying, ''when the market is in contango we can expect increases in the spot price in the next period. In contrast, when the market is in backwardation, the VECM suggests a fall in spot prices

[36] This table is replicated from material previously provided to the Commission. *See* Matthew Hougan, Hong Kim and Satyajeet Pal, Price discovery in the modern bitcoin market: Examining lead-lag relationships between the bitcoin spot and bitcoin futures market, February 16, 2021, as amended and supplemented (''Bitwise Prong One Paper'').

[37] Corbet, S., Lucey, B., Peat, M., and Vigne, S. (2018), Bitcoin futures—What use are they? *Economics Letters* (172), 23–27.

[38] Baur, D.G., and Dimpfl, T. (2019), Price discovery in bitcoin spot or futures? *The Journal of Futures Markets* (39)7, 803–817.

[39] Kapar, B., and Olmo, J. (2019). An analysis of price discovery between bitcoin futures and spot markets. *Economics Letters,* (174), 62–64.

[40] Alexander, C., and Heck, D. (2019), Price discovery, high-frequency trading and jumps in bitcoin markets. SSRN Electronic Journal.

[41] Hu, Y., Hou, Y.G., Oxley, L. (2020), What role do futures markets play in bitcoin pricing? Causality, cointegration and price discovery from a time-varying perspective. *International Review of Financial Analysis* (72).

[42] Akyildirim, E., Corbet, S., Katsiampa, P., Kellard, N., and Sensoy, A. (2020), The development of bitcoin futures: Exploring the interactions between cryptocurrency derivatives. *Finance Research Letters* (34).

[43] Fassas, A., Papadamou, S., Koulis, A. (2020), Price discovery in bitcoin futures. *Research in International Business and Finance* (52).

[44] Entrop, O., Frijns B., Seruset, M. (2020), The determinants of price discovery on bitcoin markets. *The Journal of Futures Markets,* (40)5, 816–837.

[45] Aleti, S., and Mizrach, B. (2020), Bitcoin spot and futures market microstructure. *The Journal of Futures Markets* (41)2, 194–225.

[46] Chang, A., Herrmann, W, and Cai, W. (2020), Efficient price discovery in the bitcoin markets. *Wilshire Phoenix,* October 14, 2020, available at *https://www.wilshirephoenix.com/efficient-price-discovery-in-the-bitcoin-markets/.*

[47] Corbet et al (2018) do not specify the time period of the price discovery analysis presented. *See* note 53, *infra,* and accompanying text.

to correct departures from equilibrium.'' In other words, the authors found that if there is a gap between the spot and futures price on a given day, the spot price is more likely to correct toward the futures price than vice versa.

• Alexander and Heck (2019) similarly found that there was ''strong evidence that both CME and CBOE futures have played the leading role in price discovery.'' Unlike Kapar and Olmo (2019), Alexander and Heck (2019) used intraday data with a 30-minute timing interval. Their analysis ran from December 18, 2017 to June 30, 2019, the longest time period among the ten studies the Sponsor discovered. It showed that the CME Market led the bitcoin spot market with 66% of IS and 73% of CS during that time.

Interestingly, the authors noted strong price leadership from the CME Market during Q2 2019, the last quarter they studied. In fact, Q2 2019 boosted the overall IS from the study from 57% to 66%, and CS from 50% to 73%. This increase in the CME Market's contribution to price discovery aligned with significant growth in volume on the CME Market after Q1 2019.[48]

In 2020, Alexander and Heck published a second paper in which the authors highlight the role unregulated futures and perpetual swaps from trading platforms such as Bitmex, Huobi, and OKEx play in the bitcoin market.[49] The analysis involves a complex, multidimensional approach to price discovery analysis conducted across eight different markets and four different exposure types (unregulated futures, regulated futures, perpetual swaps, and spot markets), each with different levels of microstructure friction and data integrity. These complications make it difficult to draw a direct comparison of this paper's results with the ten studies included in the table above.[50]

• Hu et al. (2020) added to the literature, saying, ''What we contribute to this literature here, especially compared to Alexander & Heck (2019), is that we consider price discovery in the Bitcoin futures markets that allow for time-varying approaches,'' noting that cointegrating relationships can be interrogated more comprehensively using time-varying approaches. The authors conclude that, ''Bitcoin futures markets dominate the price discovery process using a time-varying version of an information share measures of the IS and GIS types.'' This finding provides additional clarity around the time-dependency of other price discovery analytical results.

• Akyildirim, Corbet et al. (2019) conducted its analysis in five-, ten-, 15-, 30-, and 60-min price data intervals to reach a range of IS and CS outcomes in order to test robustness across different data time intervals. The finding that the CME Market led the bitcoin spot market was consistent across all studied time intervals.

• Fassas et al. (2020) added another record to the body of literature finding that the CME Market led the bitcoin spot market, saying, ''Our study confirms [the] Akyildirim et al. (2019), Alexander et al. (2019) and Kapar and Olmo (2019) conclusion that bitcoin futures markets, while in their relative youth, have portrayed evidence of price discovery leadership compared to the spot market.'' Fassas et al. (2020) arrives at this conclusion after applying price discovery measures to the entire year of 2018 with hourly price data.

• Aleti and Mizrach (2020) explores the market microstructure of four spot trading platforms (Bitstamp, Coinbase, Kraken, and itBit) and the CME Market over a relatively narrow two-month time period (January 2, 2019 to February 28, 2019). The paper reports separate CME Market IS values for each of the four spot trading platforms, ranging from 53% versus itBit to 55% versus Bitstamp, and four CME Market CS values ranging from 68% versus itBit to 91% versus Kraken. All of these tests find that the CME Market led price discovery against each of the spot trading platforms.

• Chang et al. (2020) explored a more recent time period (the ''second half of 2019'') and found that the CME Market led the spot market in price discovery with a CS of 63%.

It is worth noting that—as explored in Putnins (2013) [51]—IS and CS price discovery metrics can face challenges when comparing markets that differ by tick size, trade frequency, and other microstructure frictions. Specifically, these measures bias against finding price formation in markets like the CME Market that have larger tick sizes or less frequent trades. In spite of these headwinds, a majority of the studies in the table above found the CME Market led price discovery against bitcoin spot market.[52]

The Sponsor also evaluated three studies where the authors noted that the spot market led the CME Market or had mixed results:

• Corbet et al. (2018) is the earliest study examining whether the futures or spot market lead in the bitcoin market. It reached the conclusion that the spot market led, with IS and CS values assigned to the CME Market of just 15% and 18%, respectively. The time period of the price discovery analysis is not clear from the paper, and it is possible that, being the earliest paper, the period was very short. Akyildirim, Corbet, et al. (2019), a study that shares the same co-author (Corbet) but examines different data sets, arrived at the opposite conclusion, as noted above, determining that the futures market had the dominant share of price discovery. Discussing the difference between the two papers, Akyildirim, Corbet, et al. (2019) notes that Corbet et al. (2018) was based on a shorter time period, and for that reason, could have found a relationship that has since reversed.[53]

• Baur and Dimpfl (2019) is the other study that found the bitcoin spot market

[48] The monthly ADV in the CME Market grew from $60 million in March 2019 to $230 million in April 2019, according to data from the CME Group. In Q3 2020, the CME Market had a $365 million ADV.

[49] Alexander, C., and Heck, D. (2020), Price discovery in bitcoin: the impact of unregulated markets. *Journal of Financial Stability* (50), Article Number 100776.

[50] The direct question around whether the CME Market leads or lags price discovery compared to the unregulated bitcoin futures market is explored in detail in a following sub-section titled ''Examining Lead-Lag Relationships Between The Unregulated Bitcoin Futures Market And The CME Bitcoin Futures Market.''

[51] Putnins, T., What do price discovery metrics really measure? *Journal of Empirical Finance,* 23 (9), September 2013.

[52] The Commission has previously cited mixed or unsettled academic literature on lead-lag analysis in its bitcoin ETP disapproval orders. *See* USBT Order, 84 FR at 12613. Of course, the existence of variable results in IS/CS analysis, either within one study or a group of studies, is not in isolation sufficient to determine that a commodity futures market does not satisfy the concerns of the Act. There are multiple commodity markets where the Commission has approved ETPs based in part on the existence of a regulated derivatives market of significant size where select IS/CS studies find that the related derivatives market is not the main source of price discovery. For instance, Dimpfl et al. (2017) found that futures markets account for less than 10% of IS price discovery in markets like corn, wheat, soybeans, cattle, and lean hogs. Dimpfl, T., Flad, M., and Jung, R. (2017), Price discovery in agricultural commodity markets in the presence of futures speculation. *Journal of Commodity Markets,* March 2017. Similarly, Narayan and Sharma (2018), examined data on 15 commodities markets from 1977 to 2012, found that spot led futures in nine commodities (canola, cocoa, coffee, corn, gold, platinum, silver, soybean oil, and soybean yellow), and that futures dominated in just six commodities (copper, crude oil, platinum, soybean meal, sugar and wheat). Narayan, P. and Sharma, S. (2018), An analysis of time-varying commodity market price discovery. *International Review of Financial Analysis,* May 2018.

[53] Akyildirim, Corbet, et al. (2019) notes that ''in contrast to results based on a shorter period as in Corbet et al. (2018a), it appears that as the new cryptocurrency futures markets developed, they presented substantial leadership in price discovery over spot Bitcoin markets.'' This view is repeated in the conclusion, which says, ''while earlier research found that information flows and price discovery were transmitted from spot to futures markets, this research verifies that this relationship has since reversed, most likely explained by the influx of institutional and sophisticated investors.''

led the bitcoin futures market. This paper, however, has an important methodological flaw that led the CME Market contribution to appear artificially low: The authors conducted their price discovery analysis on a per-lifetime-of-each-contract basis, rather than a standard rolling-contract basis.

Alexander and Heck (2019) explore this issue extensively, going as far as running a similar per-lifetime-of-each-contract analysis to observe how much lower the futures market contribution can appear. The authors concluded that ''[t]his apparently leading role of the spot market is not surprising since, during the first few months after the introduction of a contract, there is always another contract with a nearer maturity where almost all trading activity occurs. So any finding that the spot market dominates the price discovery process is merely an artefact of very low trading volumes when the contract is first issued.''

Baur and Dimpfl (2019) acknowledge this issue and run a rolling-futures model of the same analysis for contracts traded on the Cboe, using a fairly standard methodology where the studied contract is rolled over one day prior to maturity. This led to a significantly higher share of price discovery for the Cboe contract, albeit one that still did not dominate the bitcoin spot market. Unfortunately, the authors were unable to do the same analysis for CME futures, noting that the continuous price data approach was ''only feasible for the Cboe futures as there are short gaps in our CME data.''

It is not clear why such data gaps existed, as CME data is readily available. Additionally, it is not appropriate to assume that, if the authors had studied a rolling-futures version of the CME analysis, the result would also have aligned with the findings of the rolling-futures version of the Cboe analysis. There were fewer CME bitcoin futures contracts in the data set than in the Cboe data set (four versus seven), and each of the CME contracts had a longer lifetime (or ''Sample Period,'' as shown in Table 1 of the paper), likely leading to a stronger bias from this methodological flaw.

Therefore, the Sponsor concluded that Baur and Dimpfl (2019) failed to address whether the CME Market as a whole leads price discovery versus the bitcoin spot market.

• Entrop et al. (2020) arrives at a mixed result. In aggregate, the paper finds that the CME Market leads, noting that the futures exchange has an average IS value of 50% and average CS value of 53%. The paper also found that the CME Market led price discovery in a majority of months studied, noting, ''We find that, on average, the futures market leads the price formation process in 9 (contract) months, while the spot market is the leader in the remaining (6) months.'' The paper, however, does note that the spot market led the CME Market in a statistically significant way in the last two months of the study (February and March 2019), and in nonsignificant ways in select other months. These findings led the authors to the claim that ''the leading market has changed.''

The Sponsor noted that Aleti and Mizrach (2020) and Alexander and Heck (2019) explored price discovery in overlapping time periods and reached a different conclusion.

In summary, the Sponsor concluded that the majority of academic and practitioner papers support the view that the CME Market leads price discovery as compared with the bitcoin spot market. Of the ten available papers, seven clearly find that the CME Market leads, and an eighth (Entrop et al. (2020)) has aggregate results in favor of the CME Market leading. Of the two papers that conclude that the spot market leads, one was an early paper that potentially studied a very limited time period (Corbet et al. (2018)) and the other (Baur and Dimpfl (2019)) has an important methodological flaw that limits its applicability to the question at hand.

In addition to the literature review above, the Sponsor conducted its own analysis of IS/CS price discovery between the CME Market and the bitcoin spot market. In preparing its analysis, the Sponsor considered that the academic literature on bitcoin price discovery does not have a single approach to defining ''the bitcoin spot market.'' Many studies, such as Baur and Dimpfl (2019), use a single bitcoin trading platform as a proxy for all existing spot platforms; others, such as Aleti and Mizrach (2020), evaluate a small number (typically two to five) of bitcoin trading platforms as representative of the bitcoin spot market; still others, like Kapar and Olmo (2019), use an aggregated price (in their case, the Coindesk Bitcoin USD Price Index, which draws on a screened subset of global bitcoin trading platforms).

The Sponsor evaluated the CME Market and ten bitcoin trading platforms, more than the number used in other studies encountered in the Sponsor's academic literature review. These trading platforms included all five Constituent Platforms represented in the CME US Reference Rate and the CME UK Reference Rate (Bitstamp, Coinbase, Gemini, itBit and Kraken), along with five additional bitcoin trading platforms with high reported trading volume (Binance, Bitfinex, Huobi, LBank, and OKEx). These trading platforms include both the largest USD–BTC Pair trading platform by reported volume (Coinbase) and the largest tether-BTC pair trading platform by reported volume (Binance).[54]

The Sponsor used available trade data, from the inception of the CME bitcoin futures contract on December 18, 2017 through the end of September 30, 2020. The results aligned with the majority of academic and practitioner research in finding that the CME Market leads the bitcoin spot market. The results are statistically significant for all ten trading platforms when evaluated from both an IS and a CS perspective.

The Sponsor presents the results in both full time period and monthly formats. Academic literature commonly presents results as full time period results; however, the Sponsor noted that shorter time periods such as the monthly results may be more appropriate given the potential for time variation in the bitcoin trading market.

The table below shows the IS and CS for the CME Market versus each of the ten spot trading platforms averaged across the entire time period (December 18, 2017 to September 30, 2020), along with a 95% confidence interval for those results. The * indicates that the results are statistically significant (p-value <0.05). Note that all of the IS and CS values and their confidence intervals are above the 50% mark, indicating that CME Market led all of the ten spot trading platforms across this time period.

[54] While reported volumes on bitcoin trading platforms need to be considered with caution, Coinbase and Binance regularly appear as the top trading platform for the USD–BTC Pair and tether-BTC pair, respectively, on *CoinMarketcap.com* (*https://coinmarketcap.com/currencies/bitcoin/markets/*). Tether is a digital asset used as a ''stablecoin'' that has an intended value of $1.

	CME IS (%)	Confidence interval (%)	CME CS (%)	Confidence interval (%)
Binance	*58.32	56.78–59.86	*57.38	55.45–59.32
Bitfinex	*65.75	64.22–67.29	*65.08	63.28–66.89
Bitstamp	*64.10	62.74–65.47	*68.03	66.21–69.86
Coinbase	*60.60	59.20–62.00	*60.88	58.99–62.77
Gemini	*56.44	55.03–57.84	*56.73	54.73–58.72
Huobi	*60.91	59.34–62.49	*58.97	56.96–60.98
itBit	*53.33	51.91–54.75	*52.97	50.93–55.00
Kraken	*63.17	61.58–64.76	*63.24	61.29–65.19
LBank	*66.03	63.95–68.11	*63.51	61.34–65.68
OKEx	*56.19	54.74–57.64	*53.60	51.73–55.47

To provide additional context to this finding, the Sponsor also examined each market on a calendar-month-by-calendar-month basis. This calendar-month-segmented approach allowed the Sponsor to evaluate the potential for time variation in price discovery leadership between the CME Market and the bitcoin spot market over shorter periods.

The table below displays the percentage of months that the CME Market led price discovery versus each of the ten evaluated spot trading platforms since the launch of the CME bitcoin futures contract in December 2017. The exact numbers vary by exchange, but on average, the CME Market has led spot trading platforms from an IS perspective in 89% of evaluated months, and from a CS perspective in 80% of evaluated months.

	% of months CME led IS	% of months CME led CS
Binance	85	79
Bitfinex	94	91
Bitstamp	94	91
Coinbase	91	85
Gemini	82	76
Huobi	94	84
itBit	79	62
Kraken	94	91
LBank	90	80
OKEx	85	65
Average	89	80

Taken together, these findings support the conclusion that the CME Market leads price discovery compared with the bitcoin spot market, and that leadership is generally persistent across the full time period.

Time-Shift Lead-Lag Analysis on the Bitcoin Spot Market vs. the CME Market

The Sponsor also examined time-shift lead-lag analysis (TSLL), the other popular academic approach to investigating market leadership. TSLL is an attempt to find the direction and length of the lead-lag relationship between two price series that maximizes the predictive strength of one price series against another. The analysis is performed by shifting one price series forward or backward in time relative to another series and calculating the cross-correlation between the two series and is repeated for many different lag periods to see which amount of lag of one price series results in the highest cross-correlation between the two price series. The amount of lead or lag that results in the highest cross-correlation is referred to as ''lead-lag time.''

The Sponsor analyzed the TSLL relationship between the CME Market and the same ten bitcoin spot trading platforms evaluated using IS/CS price discovery analysis. The analysis utilized available trade data from the inception of the CME bitcoin futures contract on December 18, 2017 through the end of the study on September 30, 2020.

The results of the Sponsor's TSLL analysis align with the results of its IS/CS analysis and demonstrate that the CME Market leads all evaluated spot trading platforms over the duration of the study.

The table below shows the lead-lag time (the amount of lead or lag that results in the highest cross-correlation between two price series) for the CME Market versus each of the ten spot trading platforms, calculated daily, and averaged across the entire time period (December 18, 2017 to September 30, 2020). The table also shows the 95% confidence interval for those results. A positive value indicates the CME Market leading by that amount of seconds. A negative value would indicate CME Market lagging by that amount of seconds. The * indicates the result being statistically significant (p-value <0.05), meaning the lead-lag time for the entire time period lies squarely within the positive (or negative) value territory.

	Lead-lag time (seconds)	Confidence interval (seconds)
Binance	*7.28	6.53–8.03
Bitfinex	*9.03	8.33–9.73
Bitstamp	*6.52	5.96–7.08
Coinbase	*8.42	7.65–9.18
Gemini	*6.51	5.91–7.11
Huobi	*7.57	6.96–8.18
itBit	*8.63	7.89–9.37
Kraken	*17.19	16.00–18.38
Lbank	*16.62	15.37–17.87
OKEx	*8.27	7.41–9.13

The lead-lag times vary slightly by trading platform, but are all contained within a positive value band of 6.51–17.19 seconds, indicating CME leading. All results are statistically significant.

The results of our TSLL analysis support the conclusion of our IS/CS analysis, showing that the CME Market leads each of the ten evaluated spot trading platforms in a statistically significant manner over the duration of the study.

These findings across both types of statistical analysis are, perhaps, unsurprising. Futures markets often lead price discovery when compared to spot markets. As described in papers like Garbade and Silver (1983),[55] Chan (1992),[56] and Fleming et al. (1996),[57] futures benefit from leverage, lower transaction costs, and access to short exposure. In addition, in the bitcoin market, the regulated nature of the CME Market may attract more professional investors than unregulated spot markets. These professional investors may have advantages over retail investors from an available capital, technology, information flow, and trading speed perspective. Such conditions may be

[55] Garbade, K. and Silber, W. (1983), Price movements and price discovery in futures and cash markets. *The Review of Economics and Statistics* 65(2), 289–297.

[56] Chan, K. (1992), A further analysis of the lead-lag relationship between the cash market and stock index futures market. *The Review of Financial Studies* (5)1, 123–152.

[57] Fleming et al. (1996), Trading Costs and the relative rates of price discovery in stock, futures, and option markets. *Journal of Futures Markets* 16(4), 353–387.

expected to continue into the future, particularly as bitcoin sees continued and expanded adoption as an investable asset among professional and institutional investors.

Examining Lead-Lag Relationships Between the Unregulated Bitcoin Futures Market and the CME Bitcoin Futures Market

After completing its analysis showing that the CME Market leads price discovery compared to the bitcoin spot market, the Sponsor considered whether the CME Market leads price discovery compared to the unregulated bitcoin futures market.

A number of unregulated bitcoin futures trading platforms (''Unregulated Futures Platforms'') exist, so the first step in this analysis was to determine which Unregulated Futures Platforms to consider.

The Sponsor gathered data from CoinGecko, a popular crypto data provider, which maintains an extensive list of Unregulated Futures Platforms and their futures contracts.[58] CoinGecko tracks two categories of contracts: Perpetual futures and quarterly futures. Perpetual futures are cash-settled futures that do not have an expiration date, while quarterly futures settle on a calendar basis and must be rolled forward to maintain exposure. Aggregating these two categories generated a list of 33 Unregulated Futures Platforms. The Sponsor elected to evaluate the seven largest Unregulated Futures Platforms based on open interest: Binance, BitMEX, Bybit, Deribit, FTX, Huobi, and OKEx. Together, these Unregulated Futures Platforms accounted for approximately 80% of all open interest captured by CoinGecko at the time of the analysis on May 4, 2021.

Because some offer both perpetual and quarterly contracts, the Sponsor selected from each Unregulated Futures Platform the contract type and specific contract with the highest level of open interest: Perpetual futures for Binance, BitMEX, Bybit, Deribit, and FTX, and quarterly futures for Huobi and OKEx.

The Sponsor used the full period of data available for each Unregulated Futures Platform, through the end of Q1, 2021. The data start month for each Unregulated Futures Platform was:

- Binance: September 2019
- BitMEX: December 2017 [59]
- Bybit: October 2019
- Deribit: August 2018
- FTX: July 2019
- Huobi: August 2019
- OKEx: October 2018

As with the CME Market's monthly futures contract, Huobi and OKEx's quarterly futures contracts were rolled one day prior to expiration in order to create a continuous price series.

The table below highlights key statistics for the highest open interest contract on each of the evaluated Unregulated Futures Platforms, plus the CME Market, for the month of May 2021: Open Interest, Trading Volume, and Required Margin. The CME Market row is highlighted in light blue.

	Open interest	Trading volume	Required margin (%)
Bybit	$1,666,878,515	$7,438,356,443	1
Binance	1,575,326,903	21,718,058,270	<1
CME	1,404,125,298	1,840,129,468	33
FTX	1,232,139,553	4,423,394,792	1
OKEx	842,460,775	2,112,965,793	<1
Huobi	680,431,607	5,823,998,157	<1
BitMEX	664,421,615	2,656,967,907	1
Deribit	599,004,598	1,264,134,910	1

The contracts differ significantly along each of these tracked metrics. For instance, Bybit perpetual futures have the highest open interest, while Binance perpetual futures have the highest trading volume.

The Sponsor noted the stark difference in required margin between the CME Market and all of the evaluated Unregulated Futures Platforms. The Unregulated Futures Platforms in this study offer clients leverage at ratios ranging from 100-to-1 to 125-to-1, meaning the required margin is 1% or less of the notional value of open contract positions. By comparison, the maximum leverage ratio for the CME bitcoin futures contract is 3-to-1, meaning a 33% required margin ratio.

While traders on a given Unregulated Futures Platform do not always make use of the full amount of potential leverage, industry reports suggest that the level of realized leverage on Unregulated Futures Platforms is high. For instance, a 2019 report from BitMEX found that the average level of realized leverage for BitMEX bitcoin perpetual futures for the year ending April 2019 was approximately 27-to-1, meaning an average maintained margin of less than 4%.[60]

The high leverage ratios offered by Unregulated Futures Platforms mean that, at any given moment, the amount of capital committed to any one of these unregulated futures contracts is likely significantly lower than the amount of capital committed to the CME bitcoin futures contract. As a hypothetical example, assuming an average margin of 4% (*i.e.,* 25-to-1 leverage), the amount of capital backing the $7.26 billion in aggregate open interest across the seven unregulated futures contracts can be estimated at $363 million. By comparison, assuming a 33% margin (the minimum required), the capital backing the $1.40 billion of open interest on the CME bitcoin futures contract is at least $462 million. In other words, it is possible that the amount of capital committed to the CME bitcoin futures contract is larger than the capital committed to all of the evaluated Unregulated Futures Platform futures contracts, combined.

The Sponsor's analysis noted that it is not clear, looking just at these top-level statistics alone, that the CME Market or any of the Unregulated Futures Platforms is likely to lead price discovery. To make this determination, the Sponsor compared data from the

[58] CoinGecko (*https://www.coingecko.com/en/coins/bitcoin#markets*). Navigate to the ''Perpetuals'' (perpetual futures) and ''Futures'' (predominantly quarterly futures) sub tabs within the ''Markets'' tab.

[59] BitMEX was the only platform that existed and has data available from the inception of the CME bitcoin futures market on December 17, 2017. OKEx claims to have launched bitcoin futures trading as early as June 2013, but historical data for OKEx is not available before October 2018. Binance, Bybit, Deribit, FTX, and Huobi all launched bitcoin futures trading after the inception of the CME bitcoin futures market, between 2018 and 2019.

[60] BitMEX Leverage Statistics, April 2019 (*https://blog.bitmex.com/bitmex-leverage-statistics-april-2019/*).

CME Market and each of the Unregulated Futures Platforms using the same statistical techniques used to evaluate price discovery between the CME Market and spot bitcoin trading platforms.

The table below shows the results of the Sponsor's IS and CS analysis, comparing the CME Market with each of the seven Unregulated Futures Platforms over the duration of the study. Each Unregulated Futures Platform evaluation has its own date range, based on the length of data available for such platform.

As in the spot market analysis, IS and CS values above 50% indicate that the CME Market led price discovery against a given Unregulated Futures Platform over the duration of the study period. A * indicates that the results are statistically significant (p-value <0.05). The confidence interval column shows a 95% confidence interval for the context.

The results show that the CME Market has led price discovery against each of the seven Unregulated Futures Platforms across the duration of the study. The results are statistically significant for all platforms when evaluated from an IS perspective, and for six of seven platforms from a CS perspective.

	CME IS (%)	Confidence interval (%)	CME CS (%)	Confidence interval (%)	Data range
Binance	*55.30	53.64–56.96	*54.01	51.41–56.61	Sept 2019–Mar 2021.
BitMEX	*63.67	62.30–65.04	*63.33	61.68–64.99	Dec 2017–Mar 2021.
Bybit	*61.50	59.69–63.30	*60.26	57.75–62.77	Oct 2019–Mar 2021.
Deribit	*56.91	55.56–58.26	*56.20	54.23–58.17	Aug 2018–Mar 2021.
FTX	*56.73	55.13–58.32	*58.72	56.33–61.10	July 2019–Mar 2021.
Huobi	*55.25	53.33–57.17	*53.85	51.36–56.33	Aug 2019–Mar 2021.
OKEx	*53.04	51.45–54.63	51.22	49.14–53.31	Oct 2018–Mar 2021.

The Sponsor also compared the CME Market against each Unregulated Futures Platform on a month-by-month basis. The table below shows the percentage of months that the CME Market led IS/CS price discovery against each Unregulated Futures Platform:

	% of months CME led IS	% of months CME led CS	Data range
Binance	84	74	Sept 2019–Mar 2021.
BitMEX	93	90	Dec 2017–Mar 2021.
Bybit	100	94	Oct 2019–Mar 2021.
Deribit	88	78	Aug 2018–Mar 2021.
FTX	90	95	July 2019–Mar 2021.
Huobi	85	70	Aug 2019–Mar 2021.
OKEx	73	60	Oct 2018–Mar 2021.

These monthly results support the conclusion of the Sponsor's full duration analysis in finding that the CME Market leads each of the seven Unregulated Futures Platforms from an IS and CS perspective.

In addition to its IS/CS analysis, the Sponsor also examined the CME Market and each of the Unregulated Futures Platforms using TSLL analysis. The table below shows the lead-lag time (the amount of lead or lag that results in the highest cross-correlation between two price series) for the CME Market versus each of the seven Unregulated Futures Platforms, calculated daily and averaged across the entire time period applicable to the Unregulated Futures Platform. The table also shows the 95% confidence interval for those results.

A positive value indicates the CME Market leading by that amount of seconds. A negative value would indicate CME Market lagging. The * indicates the result being statistically significant (p-value <0.05), meaning the lead-lag time for the entire time period lies squarely within the positive (or negative) value territory.

	Lead-lag time (seconds)	Confidence interval (seconds)	Data range
Binance	*3.07	2.50–3.65	Sept 2019–Mar 2021.
BitMEX	*7.23	6.76–7.70	Dec 2017–Mar 2021.
Bybit	*5.13	4.56–5.70	Oct 2019–Mar 2021.
Deribit	*4.98	4.47–5.49	Aug 2018–Mar 2021.
FTX	*2.27	2.08–2.46	July 2019–Mar 2021.
Huobi	*2.34	2.21–2.47	Aug 2019–Mar 2021.
OKEx	*3.47	2.94–4.00	Oct 2018–Mar 2021.

The results show that prices on the CME Market led prices on the Unregulated Futures Platforms by 2–7 seconds in a statistically significant manner. These results are in-line with the results of the IS/CS analysis, and support the finding that the CME Market leads price discovery compared to the unregulated bitcoin futures market.

That these findings demonstrating that the CME Market leads the unregulated bitcoin futures market in price discovery might surprise some market observers, given the higher total

notional volumes on the Unregulated Futures Platforms. Besides the possibility that the self-reported trading volumes on Unregulated Futures Platforms could be inflated, the Sponsor theorizes that highly levered retail investors with limited capital on the Unregulated Futures Platforms may be opening and closing positions more frequently, resulting in higher notional volumes, but with lesser impact on price discovery relative to well capitalized, long-term oriented professional investors on the CME Market. In addition, professional investors may have advantages over retail investors from a technology, information flow, and trading speed perspective. Such conditions may be expected to continue into the future, particularly as bitcoin sees continued and expanded adoption as an investable asset among professional and institutional investors.

Conclusion of Winklevoss Standard Prong 1: Reasonable Likelihood

The first prong of the Winklevoss Standard requires demonstrating a reasonable likelihood that a person attempting to manipulate a bitcoin ETP would also have to trade on the CME Market. In prior disapproval orders, the Commission has stated that demonstrating a lead-lag relationship between prices on the CME Market and the underlying bitcoin spot market is ''central'' to understanding this reasonable likelihood.

As detailed herein, through extensive statistical analysis and careful consideration of third-party evaluations of these markets, the Sponsor has demonstrated that the CME Market leads the bitcoin spot market and the unregulated bitcoin futures market, such that it is reasonably likely that a person attempting to manipulate the ETP would also have to trade on the CME Market, thus satisfying the first prong of the Winklevoss Standard.

Winklevoss Standard Prong 2: Predominant Influence

The second prong of the Winklevoss Standard requires demonstrating that it is unlikely that trading in the Trust would become the predominant influence on prices in the CME Market. As detailed below, the Sponsor's analysis shows that trading in the Trust is unlikely to become the predominant influence on prices in the CME Market, even when assuming aggressive estimates of first-year flows of $4.7 billion and average daily trading volume of $143 million.[61]

Estimating the Likely First-Year Flows Into a Bitcoin ETP

The Sponsor examined extensive data from other ETPs and a well-known, publicly traded bitcoin trust to estimate the likely first-year flows into a newly approved bitcoin ETP.

First, the Sponsor examined first-year flows into all ETPs currently listed on the market, using data from FactSet.[62] The Sponsor excluded ETPs with negative first-year flows.

Of the more than 2,200 ETPs with positive or flat first-year flows:

- The median ETP attracted $28 million in flows during its first year on the market.
- The ETP with the highest first-year flows in history—the Invesco QQQ Trust (Nasdaq: QQQ)—attracted $5.35 billion in flows.

The table below highlights the ten ETPs with the highest first-year flows in ETP history.

Fund	Ticker	Year-one flows ($M)
Invesco QQQ Trust	QQQ	$5,351
Communication Services Select Sector SPDR	XLC	5,186
iShares MSCI EAFE ETF	EFA	4,292
JPMorgan BetaBuilders Europe ETF	BBEU	4,187
PIMCO Active Bond ETF	BOND	4,116
JPMorgan BetaBuilders Japan ETF	BBJP	3,755
JPMorgan BetaBuilders Canada ETF	BBCA	3,656
iShares Select Dividend ETF	DVY	3,245
Real Estate Select Sector SPDR Fund	XLRE	3,171
SPDR Gold Shares	GLD	3,010

As the analysis shows, $5.35 billion is the outer limit of historical first-year flows into a bitcoin ETP. There is no precedent for an ETP attracting more than this in its first year on the market. The Sponsor concluded it is unlikely that a bitcoin ETP will experience the highest first-year flows in history, particularly given the relative size of the bitcoin market compared to the markets captured by the ETPs above, which target parts or all of the equity, bond, real estate, and gold markets.[63]

To provide a more detailed comparison, the Sponsor also examined first-year flows into first-to-market single-commodity ETPs. Bitcoin is considered a commodity by the Commodity Futures Trading Commission,[64] and one way to view a potential bitcoin ETP is as a first-to-market single-commodity ETP offering exposure to bitcoin in the same manner that the SPDR Gold Shares (NYSEArca: GLD) was a first-to-market single-commodity ETP offering exposure to gold, and the iShares Silver Trust (NYSEArca: SLV) was a first-to-market single-commodity ETP offering exposure to silver.

The following table shows the first-year flows into every first-to-market single-commodity ETP currently available in the U.S., again using data

[61] *See* Matthew Hougan, Hong Kim, and Satyajeet Pal, Is it likely that a US bitcoin ETP, if approved, will become the predominant influence on prices in the CME bitcoin futures market? February 16, 2021, as amended and supplemented (''Bitwise Prong Two Paper'').

[62] Data obtained from FactSet on November 30, 2020.

[63] At year-end 2020, the total market capitalization of bitcoin was $539 billion, according to *blockchain.com.* By comparison, the global market capitalization of the equity market was $95 trillion and the outstanding value of the global bond market was $106 trillion in 2019, according to the most recently published SIFMA Capital Markets Fact Book (September 2020), available at *https://www.sifma.org/wp-content/uploads/2020/09/US-Fact-Book-2020-SIFMA.pdf;* the professionally managed global real estate market was $9.6 trillion in 2019, according to MSCI's Market Size Report on Global Real Estate, available at *https://www.msci.com/real-estate/market-size-report;* and the total value of above-ground gold was $10 trillion on December 31, 2020, according to the World Gold Council available at *https://www.gold.org/goldhub/data/above-ground-stocks.*

[64] The Commodity Futures Trading Commission has argued successfully in federal courts that digital assets such as bitcoin are commodities. *See, e.g., Commodity Futures Trading Commission* v *McDonnell and CabbageTech, Corp.,* 18–CV–361 (E.D.N.Y. March 6, 2018) and *Commodity Futures Trading Commission* v *My Big Coin Pay, Inc.,* 18–cv–10077–RWZ (D. Mass. Sept. 26, 2018).

from FactSet.[65] First-year flows range from $3.01 billion for GLD to negative $1 million for the iPath Bloomberg Lead Subindex Total Return ETN (NYSEArca: LD).[66]

Commodity	Ticker	Year-one flows ($M)
Gold	GLD	$3,010
Silver	SLV	1,730
Crude Oil	USO	827
Platinum	PPLT	708
Palladium	PALL	603
Natural Gas	UNG	374
Corn	CORN	115
Coffee	JO	48
Gasoline	UGA	28
Sugar	SSG	12
Soybeans	SOYB	10
Cotton	BAL	7
Nickel	JJN	2
Copper	CPER	2
Wheat	WEAT	1
Cocoa	NIB	1
Aluminum	JJU	1
Carbon Credits	GRN	0
Tin	JJT	0
Lead	LD	−1

These figures provide additional context on the likely upper bound of potential flows into a bitcoin ETP.

Finally, the Sponsor examined the Grayscale Bitcoin Trust (OTCQX: GBTC), a publicly traded grantor trust that holds bitcoin directly with a third-party custodian. As of December 31, 2020, GBTC was the only product that provided investors with readily accessible exposure to bitcoin through traditional brokerage accounts, and has been available to U.S. investors since May 2015.[67] A bitcoin ETP and GBTC will likely compete for investor allocations.

GBTC is different from an ETP in certain ways, including that the structure does not allow for redemptions, that it has a different regulatory status than an ETP, and that shares of GBTC are materially more likely to trade at significant and variable premiums and/or discounts to the net asset value of the trust. GBTC does, however, permit creations, allowing it to accommodate flows to reflect investor demand. As such, it can be a useful data set for analyzing investor demand for exposure to bitcoin through a traditional brokerage window and what impact flows from such demand can have on prices in the CME Market.[68]

In its most successful year, GBTC attracted a record $4.7 billion in flows in 2020, according to Grayscale Investments.[69] The fund's previous record was $472 million, set in 2019. 2020's record flows occurred during a sustained bull market for bitcoin, as bitcoin's price rose 306% in 2020.[70]

Based on the foregoing assessments, the Sponsor utilized $4.7 billion as its working estimate for first-year flows into a new bitcoin ETP. The Sponsor believed this estimate to be aggressive, as it assumes that a bitcoin ETP will:

- Be the third-fastest-growing ETP in history, out of more than 2,200 products with positive year-one flows;
- significantly surpass (by more than 50%) the first-year flows into GLD, which experienced the highest first-year flows in first-to-market single-commodity ETP history; and
- match the highest annual flow in GBTC's history, achieved during a strong bull market, all while the new ETP is forced to compete for market share with GBTC itself.

Evaluating the Potential Influence of ETP Flows on Prices in the CME Market

The Sponsor analyzed whether such flows into a first-to-market bitcoin ETP would cause such ETP to be the predominant influence on prices in the CME Market.

Based on information on the flows into GBTC that are publicly available from multiple sources,[71] the Sponsor analyzed with historical data whether $4.7 billion in flows into a bitcoin investment product in a single year would be likely to cause that product to become the predominant influence on prices in the CME Market.

The Sponsor's statistical analysis examined the relationship of flows into GBTC in 2020 and the changes in the price of bitcoin, using both daily and weekly flows.[72] Daily (or weekly) flows were calculated from Bloomberg data by multiplying the change in outstanding shares of the trust by the net asset value per share of that day (or week). Daily (or weekly) percentage price changes of bitcoin were calculated using the 4:00 p.m. E.T. bitcoin reference rate from Coin Metrics.[73]

The charts below show the results of the Sponsor's analysis. Each dot represents a daily (or weekly) flow into GBTC and the corresponding daily (or weekly) change in the price of bitcoin. As such, there are 253 dots in the first chart representing each trading day, and 52 dots in the second chart representing each week in 2020.

BILLING CODE 8011–01–P

[65] Data obtained from FactSet on November 30, 2020.

[66] Negative flows occur when a product is seeded with a certain amount of capital but some of that capital is redeemed over time, and there are no offsetting creations.

[67] *See* OTC Markets Group Inc., press release, May 5, 2015. OTC Markets Group Welcomes Bitcoin Investments Trust to OTCQX, available at *https://www.prnewswire.com/news-releases/otc-markets-group-welcomes-bitcoin-investment-trust-to-otcqx-300077150.html.*

[68] The Sponsor notes that one difference between the creation/redemption and arbitrage mechanism between GBTC and an ETP is that newly created shares in GBTC are not immediately available to be sold in the secondary market. Instead, after purchasing shares, an investor must hold the shares for 6-months before they are permitted to be traded on the secondary market. This creates a longer holding period for an arbitrageur, as compared to a typical ETP arbitrage trade where an authorized participant may immediately trade newly created shares into the secondary market. For example, to capture arbitrage on GBTC shares trading at a premium, an arbitrageur would need to short sell GBTC shares while buying spot bitcoin, deliver the bitcoin for creation of GBTC shares, and hold those shares for six months until they are released from transfer restriction and can be delivered to the short sellers to close out the trade. But while the holding period of the GBTC share premium arbitrage is at minimum 6 months, the buying in the spot bitcoin market occurs, in this case, right before the creation date, which is the date inflows into GBTC are recorded.

In addition, institutional arbitrageurs are not the only cohort that can create shares for GBTC. Accredited investors may also subscribe for GBTC shares either by contributing bitcoin or delivering cash. For cash orders, Genesis Trading Global, Inc., the ''authorized participant'' of the trust, purchases the bitcoin for the given cash amount by 6 p.m. ET on the day the cash is provided by the subscriber.

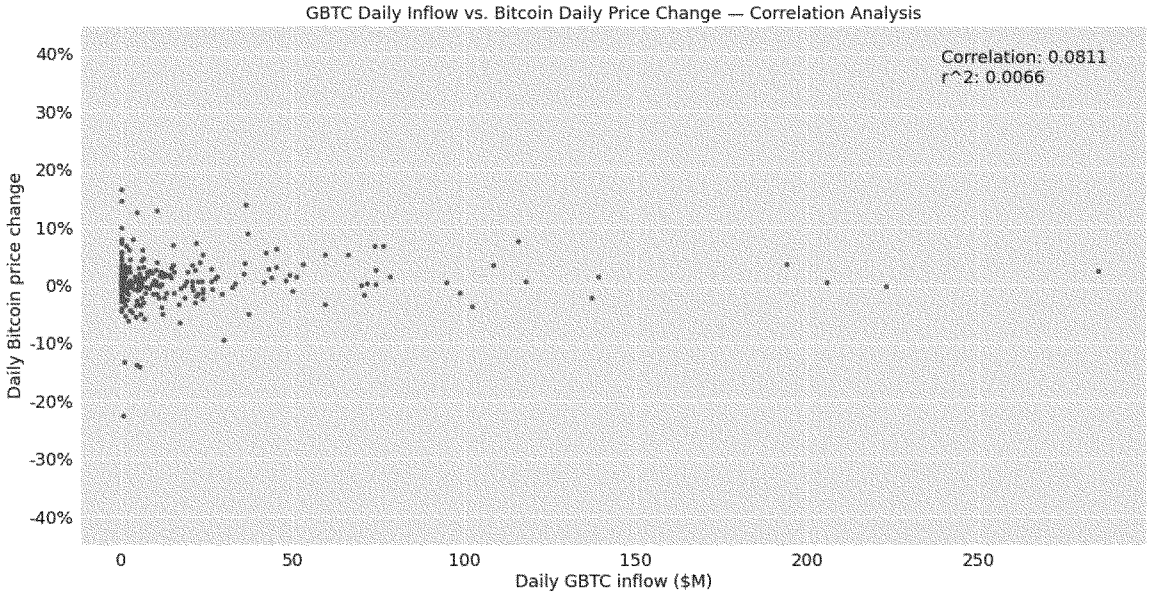
[69] *See* Grayscale Investments, Digital Asset Investment Report, Q4 2020 (*grayscale.co/insights/grayscale-q4-2020-digital-asset-investment-report/*).

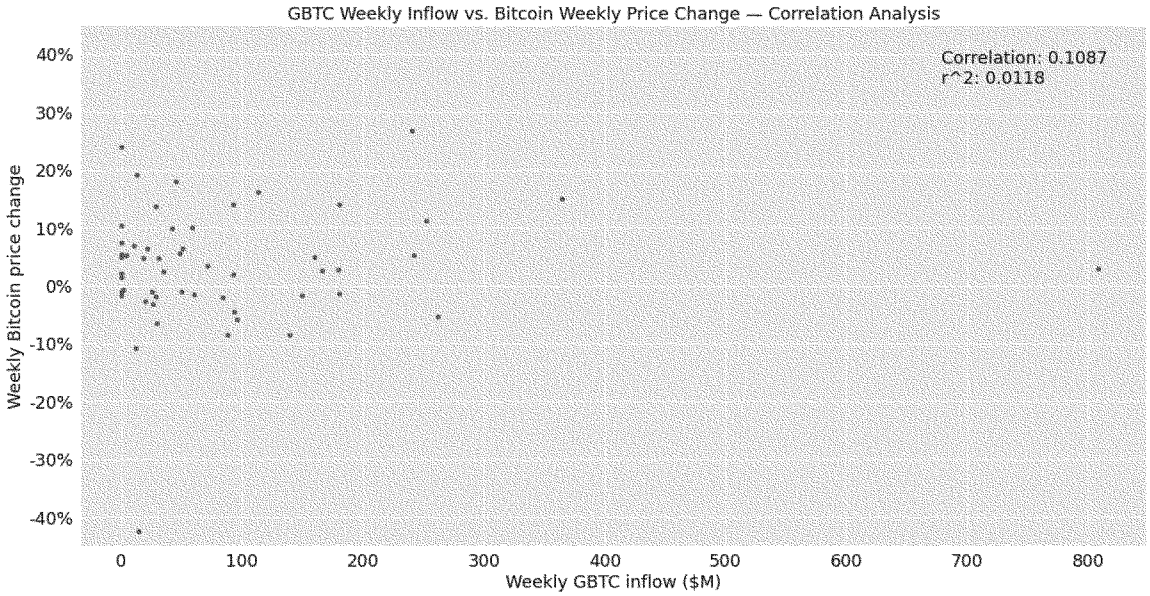
[70] Bitcoin's price rose from $7,147 on December 31, 2019 to $29,026 on December 31, 2020 according to the Coin Metrics bitcoin reference rate, available at *https://coinmetrics.io/reference-rates/.*

[71] Information on GBTC creation of shares is available from the issuer, reports on Form 8–K filed by the issuer on *sec.gov*, and third party websites such as Bloomberg.

[72] The Sponsor has used both single day and weekly flows, acknowledging that the buying activity for an in-kind creation may not necessarily occur in a single day leading up to the creation date. Instead, an investor might build their position over time. Using both daily and weekly flows helps to capture more of this extended possibility.

[73] *See* note 70, *supra.*





BILLING CODE 8011–01–C

The data shows there is no meaningful relationship between daily and weekly flows into GBTC and changes in the price of bitcoin, despite the aggregate flows being $4.7 billion: The correlation for daily results is 0.08 and the correlation for weekly results is 0.11, both of which are low.

The experience of outlier days and weeks with large flows supports this conclusion. For instance, the largest one-day flow occurred on December 22, 2020, when $285 million flowed into the fund; bitcoin's price moved up 2.3% that day, within the normal daily range for a bitcoin price move.[74]

Similarly, the largest one-week flow occurred for the week ending December 27, 2020, when GBTC attracted approximately $809 million in flows; bitcoin's price settled up just 2.9% that week, again within the normal range for a weekly price move.[75]

Based on this statistical analysis, the Sponsor concluded that it is unlikely that the aggressive estimate of first-year flows into a bitcoin ETP ($4.7 billion) would cause it to become the predominant influence on prices in the CME Market.

Estimating the Likely Trading Volume of a Bitcoin ETP

Beyond the impact of investment flows, the Sponsor considered whether secondary market trading in the Shares would be likely to become the predominant influence on prices in the CME Market. The Sponsor was able to draw on two relevant comparisons to create estimates of the likely trading volume of a bitcoin ETP.

First, the Sponsor considered trading in GBTC, using secondary market data from Bloomberg. Shares of GBTC are publicly quoted on the OTCQX Best Market and are widely available to U.S. investors through traditional brokerage accounts. As such, although GBTC operates under a different regulatory structure than an ETP and has

[74] The standard deviation of the daily percentage price change of bitcoin in 2020 using the Coin Metrics bitcoin reference rate was 4.38%.

[75] The standard deviation of the weekly percentage price change of bitcoin in 2020 using the Coin Metrics bitcoin reference rate was 10.35%.

historically traded at significant and variable premiums and discounts to its net asset value, the historical turnover of GBTC provide one estimate of the future turnover of a bitcoin ETP. GBTC's average daily trading volume (ADV) in 2020 was $103 million. On a monthly basis, that figure ranged from $37 million in April 2020 to $368 million December 2020, as reported in the table below.

Examining ADV in isolation offers only a partial picture, however. Trading activity in GBTC is correlated with the product's assets under management (AUM), which is in turn linked to bitcoin's price. The table below shows the ''ADV/AUM Ratio'' for GBTC for each month in 2020, using the month-end AUM as the denominator. Although the absolute size of the ADV ranges widely across 2020, the ADV/AUM ratio stays fairly consistent, running from 1.10% (April and September) to 2.21% (February). The average ADV/AUM ratio for the year was 1.54%.

Month	ADV (M)	AUM (M)	ADV/AUM ratio (%)
Jan 2020	$43	$3,191	1.36
Feb 2020	66	2,997	2.21
Mar 2020	44	2,249	1.96
Apr 2020	37	3,313	1.10
May 2020	68	4,034	1.68
Jun 2020	52	3,870	1.33
Jul 2020	65	5,264	1.23
Aug 2020	89	6,018	1.47
Sep 2020	57	5,167	1.10
Oct 2020	95	7,728	1.23
Nov 2020	259	13,060	1.98
Dec 2020	368	20,445	1.80
Average	*103*	*6,445*	*1.54*

Applying this average ADV/AUM ratio to the $4.7 billion working estimate of first-year flows into a bitcoin ETP, the estimated daily trading volume would be approximately $72 million at the end of the ETP's first year.

A second comparison that may be useful is to examine the case of other first-to-market commodity ETPs. GLD is the largest such ETP, and therefore trading activity of GLD [76] may provide a useful comparison. Using the same methodology as with GBTC, the Sponsor examined the ADV/AUM ratio of GLD for every month in 2020. The ratio value ranged from 1.65% (September) to 5.93% (March). The average ratio was 3.04%.

Month	ADV (M)	AUM (M)	ADV/AUM ratio (%)
Jan 2020	$1,206	$46,053	2.62
Feb 2020	2,010	47,348	4.25
Mar 2020	2,903	48,916	5.93
Apr 2020	1,828	57,343	3.19
May 2020	1,819	62,557	2.91
Jun 2020	1,606	67,484	2.38
Jul 2020	2,215	78,789	2.81
Aug 2020	3,312	79,163	4.18
Sep 2020	1,272	76,941	1.65
Oct 2020	1,376	75,889	1.81
Nov 2020	1,855	73,285	2.53
Dec 2020	1,369	71,558	1.91
Average	*1,901*	*65,022*	*3.04*

Applying GLD's ADV/AUM ratio to the $4.7 billion working estimate of first-year flows into a bitcoin ETP, the estimated daily trading volume would be approximately $143 million. The Sponsor elected to use this estimate of $143 million as its working estimate for average daily trading volume of a new bitcoin ETP at the end of its first year. The Sponsor believes this estimate to be aggressive, as it assumes that a bitcoin ETP will:

- Be the third-fastest-growing ETP in history, out of more than 2,200 products with positive year-one flows.
- have an ADV/AUM ratio approximately two times higher than that of GBTC, which also offers exposure to bitcoin through traditional brokerage accounts.

Evaluating the Potential Influence of Secondary Market Trading in ETP Shares on Prices in the CME Market

The CME Market had an average daily trading volume of $392 million in 2020. The lowest month, April 2020, had an average daily trading volume of $176 million, and the highest month, December 2020, had an average daily trading volume of $935 million. The table below shows the ADV of the CME Market each month in 2020.

[76] *See* GLD historical market data, available at *https://www.spdrgoldshares.com/usa/historical-data/*.

Month	CME ADV (M)
Jan 2020	$408
Feb 2020	401
Mar 2020	202
Apr 2020	176
May 2020	305
Jun 2020	223
Jul 2020	252
Aug 2020	455
Sep 2020	397
Oct 2020	329
Nov 2020	665
Dec 2020	935

Given that the average daily trading volume of the CME Market in 2020 was 174% higher at $392 million than the Sponsor's aggressive estimate of a new bitcoin ETP's potential trading volume of $143 million, the Sponsor found that it is unlikely that trading in a new bitcoin ETP will cause such ETP to become the predominant influence on prices in the CME Market.

Conclusion of Winklevoss Standard Prong 2: Predominant Influence

The second prong of the Winklevoss Standard requires demonstration that it is unlikely that trading in the Trust would become the predominant influence on prices in the CME Market.

As detailed herein, the Sponsor's analysis shows that trading in the Trust is unlikely to become the predominant influence on prices in the CME Market, even when assuming aggressive estimates of first-year flows of $4.7 billion and average daily trading volume of $143 million.

* * * * *

In conclusion, as the foregoing analysis and data demonstrates, the proposal has met its burden presented by Section 6(b)(5) of the Act[77] and, in particular, the requirement that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, by demonstrating that the CME Market (i) is a regulated market; (ii) participates in a surveillance sharing agreement with the Exchange; and (iii) satisfies the Commission's ''significant market'' definition under the Winklevoss Standard.

Availability of Information Regarding the Shares and Bitcoin

The NAV will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The ITV will be calculated every 15 seconds throughout the core trading session each trading day, and available through online information services.

The Sponsor will cause information about the Shares to be posted to the Trust's website (*https://www.bitwiseinvestments.com/*): (i) The NAV and NAV per Share for each Exchange trading day, posted at end of day; (ii) the daily holdings of the Trust, before 9:30 a.m. E.T. on each Exchange trading day; (iii) the Trust's effective prospectus, in a form available for download; and (iv) the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis for the Trust. For example, the Trust's website will include (i) the prior business day's trading volume, the prior business day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the bid/ask spread at the time of NAV calculation (''Bid/Ask Price'') against the NAV; and (ii) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters. The Trust's website will be publicly available prior to the public offering of Shares and accessible at no charge.

Investors may obtain on a 24-hour basis bitcoin pricing information based on the CME US Reference Rate, CME UK Reference Rate and CME Bitcoin Real Time Price, bitcoin spot market prices and bitcoin futures price from various financial information service providers. Current bitcoin spot market prices are also generally available with bid/ask spreads from bitcoin trading platforms, including the Constituent Platforms of the CME US Reference Rate.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Trust.[78] Trading in Shares of the Trust will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The Exchange may halt trading during the day in which an interruption to the dissemination of the ITV occurs.[79] If the interruption to the dissemination of the ITV persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. The Exchange may also halt trading if the value of the underlying commodity is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the Sponsor, Trust, Bitcoin Custodian or the Exchange or if the Exchange stops providing a hyperlink on its website to any such unaffiliated commodity value.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.201–E. The trading of the Shares will be subject to NYSE Arca Rule 8.201–E(g), which sets forth certain restrictions on Equity Trading Permit (''ETP'') Holders acting as registered Market Makers in Commodity-Based Trust Shares to facilitate surveillance.[80]

[77] 15 U.S.C. 78f(b)(5).

[78] *See* NYSE Arca Rule 7.12–E.

[79] A limit up/limit down condition in the futures market would not be considered an interruption requiring the Trust to be halted.

[80] Under NYSE Arca Rule 8.201–E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying commodity, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3–E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or

Continued

The Exchange represents that, for initial and continued listing, the Trust will be in compliance with Rule 10A–3 under the Act,[81] as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares of the Trust will be outstanding at the commencement of trading on the Exchange.

Surveillance

The Exchange represents that trading in the Shares of the Trust will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[82] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The Exchange further represents that it may obtain information regarding trading in the Shares and the CME Market from the CME and other markets and other entities that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[83] The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and the CME Market with the CME and other markets and entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, the CME Market and the underlying commodity, as applicable, from such markets and other entities.

Also, pursuant to NYSE Arca Rule 8.201–E(g), the Exchange is able to obtain information regarding trading in the Shares, bitcoin futures and the underlying bitcoin through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

In addition, the Exchange has a general policy prohibiting the improper distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (i) the description of the index, portfolio or referenced asset, (ii) limitations on index or portfolio holdings or reference assets, or (iii) the applicability of Exchange listing rules specified in this rule filing will constitute continued listing requirements for listing the Shares on the Exchange.

The Sponsor has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 9.2–E(a).

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[84] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201–E. Further, the Exchange has demonstrated that the proposed rule change satisfies the Winklevoss Standard with respect to the CME Market.

As discussed above, both existing academic literature and the Sponsor's own studies show that the CME Market leads price discovery relative to the bitcoin spot market. As a result, and given that the Sponsor has demonstrated that it is unlikely that trading in the Shares will become the predominant influence upon prices in the CME Market, the CME Market represents a regulated market of significant size, and that there is a reasonable likelihood that a person attempting to manipulate the Shares would also have to trade on that market to successfully manipulate the Shares.[85]

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares and the CME Market in all trading sessions and to deter and detect attempted manipulation of the Shares or other violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and bitcoin futures with the CME and other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange is also able to obtain information regarding trading in the Shares and bitcoin futures or the underlying bitcoin through ETP Holders, in connection with such ETP Holders' proprietary or customer trades which they effect through ETP Holders on any relevant market.

Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The Trust's website will also include a form of the prospectus for the Trust that may be downloaded. The website will include the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis for the Trust. The Trust's website will include (i) daily trading volume, the prior business day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the Bid/Ask Price against the NAV; and (ii) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters. The Trust's website will be publicly available prior to the public offering of Shares and accessible at no charge.

entity controlling an ETP Holder. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

[81] 17 CFR 240.10A–3.

[82] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[83] For a list of the current members of ISG, *see https://isgportal.org/*. The Exchange notes that not all components of the Trust may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[84] 15 U.S.C. 78f(b)(5).

[85] *See* notes 222 and 23, *supra,* and accompanying text.

Trading in Shares of the Trust will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of a new type of exchange-traded product based on the price of bitcoin that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of a new type of Commodity-Based Trust Share based on the price of bitcoin that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2021–89 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2021–89. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2021–89 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[86]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23921 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93448; File No. SR–ISE–2021–22]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot To Permit the Listing and Trading of Options on the Nasdaq 100 Reduced Value Index

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 21, 2021, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot to permit the listing and trading of options based on ⅕ the value of the Nasdaq-100 Index (''Nasdaq-100'') currently set to expire on November 4, 2021.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[86] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE filed a rule change to permit the listing and trading of index options on the Nasdaq 100 Reduced Value Index (''NQX'') on a twelve month pilot basis [3] (''Program'').

NQX options trade independently of and in addition to NDX options, and the NQX options are subject to the same rules that presently govern the trading of index options based on the Nasdaq-100, including sales practice rules, margin requirements, trading rules, and position and exercise limits. Similar to NDX, NQX options are European-style and cash-settled, and have a contract multiplier of 100. The contract specifications for NQX options mirror in all respects those of the NDX options contract listed on the Exchange, except that NQX options are based on ⅕ of the value of the Nasdaq-100, and are P.M.-settled pursuant to Options 4A, Section 12(a)(6).

The Exchange proposes to amend ISE Options 4A, Section 12(a)(6) to extend the current NQX pilot period to May 4, 2022. This pilot was previously extended with the last extension through November 4, 2021.[4] The Exchange continues to have sufficient capacity to handle additional quotations and message traffic associated with the listing and trading of NQX options. In addition, index options are integrated into the Exchange's existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange also continues to have adequate surveillance procedures to monitor trading in NQX options thereby aiding in the maintenance of a fair and orderly market. Additionally, there is continued investor interest in these products and this extension will provide additional time to collect data related to the pilot.

The Exchange believes that the proposed extension of the Program will not have an adverse impact on capacity.

Pilot Report

The Exchange currently makes public on its website the data and analysis previously submitted to the Commission on the Program and will continue to make public any data or analysis it submits under the Program in the future. The Exchange will be submitting a rule change to request that the Program become permanent. In lieu of submitting any additional annual reports, the Exchange would provide additional information requested by the Commission in connection with the permanency rule change for this Program. The Exchange would continue to provide the Commission with ongoing data unless and until the Program is made permanent or discontinued.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the Exchange believes that the Program has been successful to date. The Exchange has not encountered any problems with the Program. By extending the pilot, the Exchange believes it will attract order flow to the Exchange, increase the variety of listed options, and provide a valuable hedge tool to retail and other investors. Specifically, the Exchange believes that the pilot will provide additional trading and hedging opportunities for investors while providing the Commission with data to monitor for and assess any potential for adverse market effects of allowing P.M.-settlement for NQX options, including on the underlying component stocks.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. NQX options would be available for trading to all market participants and therefore would not impose an undue burden on intra-market competition.

The Exchange believes that the proposed rule change will not impose an undue burden on inter-market competition as this rule change will continue to facilitate the listing and trading of a new option product that will enhance competition among market participants, to the benefit of investors and the marketplace. The continued listing of NQX will enhance competition by providing investors with an additional investment vehicle, in a fully-electronic trading environment, through which investors can gain and hedge exposure to the Nasdaq-100. Furthermore, this product could offer a competitive alternative to other existing investment products that seek to allow investors to gain broad market exposure. Finally, it is possible for other exchanges to develop or license the use of a new or different index to compete with the Nasdaq-100 and seek Commission approval to list and trade options on such an index.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the

[3] *See* Securities Exchange Act Release No. 82911 (March 20, 2018), 83 FR 12966 (March 26, 2018) (SR–ISE–2017–106) (Approval Order).

[4] *See* Securities Exchange Act Release Nos. 86071 (June 10, 2019), 84 FR 27822 (June 14, 2019) (SR–ISE–2019–18); 87379 (October 22, 2019), 84 FR 57793 (October 28, 2019) (SR–ISE–2019–27); 88683 (April 17, 2020), 85 FR 22768 (April 23, 2020) (SR–ISE–2020–18); 90257 (October 22, 2020), 85 FR 68387 (October 28, 2020) (SR–ISE–2020–33); and 91485 (April 6, 2021), 86 FR 19052 (April 12, 2021) (SR–ISE–2021–05).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that it may immediately extend the Program prior to the current expiration date so that the pilot may continue uninterrupted. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Program. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2021–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2021–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2021–22, and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23923 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93447; File No. SR–Phlx–2021–66]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot To Permit the Listing and Trading of Options on the Nasdaq 100 Micro Index

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 2021, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot to permit the listing and trading of options based on 1/100 the value of the Nasdaq-100 Index (''Nasdaq-100'') currently set to expire on November 4, 2021.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx filed a rule change to permit the listing and trading of index options on the Nasdaq 100 Micro Index Options (''XND'') on a pilot basis [3] (''Program'').

XND options trade independently of and in addition to NDX options, and the XND options are subject to the same rules that presently govern the trading of index options based on the Nasdaq-100 Index, including sales practice rules, margin requirements, trading rules, and position and exercise limits. Similar to NDX, XND options are European-style and cash-settled, and have a contract multiplier of 100. The contract specifications for XND options mirror in all respects those of the NDX options contract already listed on the Exchange, except that XND options are based on 1/100th of the value of the Nasdaq-100 Index, and are P.M.-settled

[3] *See* Securities Exchange Act Release No. 91524 (April 9, 2021), 86 FR 19909 (April 15, 2021) (SR–Phlx–2021–07) (Approval Order).

pursuant to Options 4A, Section 12(a)(5).

The Exchange proposes to amend Phlx Options 4A, Section 12(a)(6) to extend the current XND pilot period to May 4, 2022. The Exchange continues to have sufficient capacity to handle additional quotations and message traffic associated with the listing and trading of XND options. In addition, index options are integrated into the Exchange's existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange also continues to have adequate surveillance procedures to monitor trading in XND options thereby aiding in the maintenance of a fair and orderly market. Additionally, there is continued investor interest in these products and this extension will provide additional time to collect data related to the pilot.

The Exchange believes that the proposed extension of the Program will not have an adverse impact on capacity.

Pilot Report

The Exchange currently makes public on its website the data and analysis previously submitted to the Commission on the Program and will continue to make public any data or analysis it submits under the Program in the future. The Exchange will be submitting a rule change to request that the Program become permanent. In lieu of submitting an annual report for 2021, the Exchange would provide additional information requested by the Commission in connection with the permanency rule change for this Program. The Exchange would continue to provide the Commission with ongoing data unless and until the Program is made permanent or discontinued.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the Exchange believes that the Program has been successful to date. The Exchange has not encountered any problems with the Program. By extending the pilot, the Exchange believes it will attract order flow to the Exchange, increase the variety of listed options, and provide a valuable hedge tool to retail and other investors. Specifically, the Exchange believes that the pilot will provide additional trading and hedging opportunities for investors while providing the Commission with data to monitor for and assess any potential for adverse market effects of allowing P.M.-settlement for XND options, including on the underlying component stocks.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. XND options would be available for trading to all market participants and therefore would not impose an undue burden on intra-market competition.

The Exchange believes that the proposed rule change will not impose an undue burden on inter-market competition as this rule change will continue to facilitate the listing and trading of a new option product that will enhance competition among market participants, to the benefit of investors and the marketplace. The continued listing of XND will enhance competition by providing investors with an additional investment vehicle, in a fully-electronic trading environment, through which investors can gain and hedge exposure to the Nasdaq-100. Furthermore, this product could offer a competitive alternative to other existing investment products that seek to allow investors to gain broad market exposure. Finally, it is possible for other exchanges to develop or license the use of a new or different index to compete with the Nasdaq-100 and seek Commission approval to list and trade options on such an index.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[8] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that it may immediately extend the Program prior to the current expiration date so that the pilot may continue uninterrupted. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Program. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2021–66 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2021–66. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2021–66, and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23922 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93442; File No. SR–DTC–2021–015]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend DTC's Procedures and Make Clarifying Changes to the DTC Rules

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 18, 2021, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the DTC Rules, By-Laws and Organization Certificate (''Rules'') in order to (i) amend and clarify certain notice provisions relating to proposed rule changes and changes to DTC's Procedures, (ii) eliminate obsolete Rules, and (iii) make technical and clarifying changes to the Rules, as discussed more fully below.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] Each term not otherwise defined herein has its respective meaning as set forth in the Rules, which includes, but is not limited to, the By-Laws of DTC (''By-Laws''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to (i) amend and clarify certain notice provisions relating to proposed rule changes and changes to DTC's Procedures, (ii) eliminate obsolete Rules, and (iii) make technical and clarifying changes to the Rules, as discussed more fully below.

(i) Amend and Clarify Certain Notice Provisions

Pursuant to the proposed rule change, DTC would amend and clarify certain notice provisions relating to proposed rule changes and changes to DTC's Procedures. Specifically, in Rule 19 (Notice of Proposed Rule Changes), DTC is proposing to replace ''immediately'' with ''promptly'' in order to provide that DTC will promptly—but might not immediately—notify Participants, Pledgees, and registered clearing agencies of any proposed rule changes. DTC is also proposing to delete the requirement in Rule 27 (Procedures) that DTC provide Participants and Pledgees with ten Business Days' notice of any amendment to the Procedures. DTC believes that the foregoing requirements are not necessary or practical because, as explained below, Participants and Pledgees (and registered clearing agencies, as applicable) are already provided adequate notice of any changes or proposed changes to DTC's Rules or Procedures through the rule change process.

As a clearing agency registered with the Commission, DTC's Rules and Procedures are adopted and enforced pursuant to a clear framework under the Act. Under the rule change process, generally, before a proposed rule change may take effect, (i) the change and an explanatory statement must be filed with the Commission and posted by DTC on its website, (ii) notice of the filing and the substantive terms or description of the change must be published by the Commission in the **Federal Register** for public review and comment, and (iii) the Commission must approve the change (or the change must otherwise be permitted to take effect). DTC's Rules are filed with and reviewed by the Commission. As a clearing agency registered under Section 17A of the Act,[6] a self-regulatory organization subject to Section 19 of the

[6] 15 U.S.C. 78q–1.

Act,[7] and a systemically important financial market utility under Title VIII of Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank''),[8] DTC is required to follow: (i) A specified process [9] whenever it proposes a new rule or a change or amendment to its Rules and (ii) a specified process [10] whenever it proposes to make a change to its rules, procedures or operations that could materially affect the nature or level of risks presented by DTC.

These rule change processes provide notice to Participants, Pledgees, and registered clearing agencies, among others, and provide an opportunity for those parties to comment on such changes. Rule 19b–4 under the Act requires that DTC post any rule change proposals on its website within two business days after the filing of a proposed rule change,[11] post any rule changes that are approved by the Commission within two business days after it has been notified of the Commission's approval [12] and post any rule change within two business days of the Commissions notice of such proposed change for rule changes that are effective upon filing.[13] DTC complies—and will continue to comply—with such notice requirements which it believes are adequate.

In terms of technical changes that relate to the notice provisions, DTC is proposing to amend the language in Rule 19 to (i) more closely align with the SEC's interpretation [14] of the requirement for a clearing agency to provide for the fair representation of its members,[15] and (ii) clarify that DTC will notify Participants, Pledgees and registered clearing agencies of any rule change proposals by posting the proposal on the DTC website.[16] Further, in order to clarify that Pledgees are bound by Procedures in the same manner they are bound to the Rules, DTC is proposing to add ''Pledgee'' to the third sentence of Rule 27.[17]

(ii) Eliminate Obsolete Rules

DTC periodically reviews the Rules for accuracy and applicability. In the most recent review, DTC identified the following two Rules for removal from the Rules.

A. Rule 8 (Deliveries of Notifications Among Participants and Pledgees)

DTC is proposing to remove Rule 8 from the Rules because the subject delivery service is no longer utilized by Participants and Pledgees. Rule 8 provides that DTC will accept deliveries of hard copy confirmations, advices and other records from a Participant or Pledgee that are addressed to another Participant or Pledgee at its offices. DTC, in turn, will make the hard-copy documents available to the addressee.

Rule 8 has appeared in the Rules, in its current form, since at least 1980.[18] Rule 8 relates back to a time when physical securities processing and the associated documentation were only in hardcopy form. It is DTC's understanding that, as technology started to advance, including, but not limited to the automation and availability of data files, Participants and Pledgees began using other means, including electronic or computer-generated messaging, to communicate and exchange documentation relating to a securities transaction.

No Participant or Pledgee has used DTC facilities to deliver hardcopy documents to other Participants and Pledgees in several years. DTC is not aware of any Participant or Pledgee that has expressed interest in doing so. Therefore, DTC is proposing to remove Rule 8 from the Rules and reflect that the Rule number is reserved for future use.

B. Rule 34 (EB Collateral Positioning)

DTC is proposing to remove Rule 34 from the Rules because, as explained below, the predicate service operated by Euroclear Bank SA/NV (''EB'') is no longer being offered. In 2016, DTC filed a rule filing with the Commission to add Rule 34 to the Rules.[19] The purpose of Rule 34 was to establish a free-of-payment (''FOP'') Participant Account for EB at DTC [20] and to provide Participants with a framework for positioning securities they held at DTC for collateral transfers on the books of EB in connection with EB's collateral management services (''Collateral Positioning'').[21] Rule 34 also reflects that EB would only accept deliveries of securities for Collateral Positioning from Participants that were also (i) participants of EB and (ii) users of DTCC Euroclear Global Collateral Ltd. (''DEGCL'') Inventory Management Service (''DEGCL IMS''). DEGCL was a United Kingdom joint venture of The Depository Trust & Clearing Corporation (''DTCC'') and Euroclear S.A./N.V. (''Euroclear''), formed for the purpose of offering global information, record keeping, and processing services for derivatives collateral transactions and other types of financing transactions. The DEGCL IMS service offered each user an automated mechanism for using the securities it held at DTC as collateral on the books of EB. DEGCL IMS was operated by EB and other entities in the Euroclear group, as the service provider to DEGCL, in accordance with the appropriate agreements among them and in compliance with applicable regulatory requirements. There was no direct relationship between DTC and DEGCL IMS. However, DTC understood that EB was acting as a service provider to DEGCL, and accordingly, that Rule 34 supported the DEGCL IMS service.

On March 10, 2020, the DEGCL joint venture was dissolved.[22] As a result, the DEGCL IMS service is no longer offered, rendering Rule 34 obsolete. Accordingly, DTC is proposing to remove Rule 34 from the Rules and reflect that the Rule number is reserved for future use.

---

[7] 15 U.S.C. 78s.

[8] 12 U.S.C. 5465(e)(1).

[9] This process is set forth in Section 19(b) of the Exchange Act and Exchange Act Rule 19b–4. 15 U.S.C. 78s(b) and 17 CFR 240.19b–4.

[10] This process is set forth in Section 806(e) of Dodd-Frank and Exchange Act Rule 19b–4. 12 U.S.C. 5465(e) and 17 CFR 240.19b–4.

[11] 17 CFR 240.19b–4(l).

[12] 17 CFR 240.19b–4(m)(2).

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 20 FR 415 (July 1, 1980) (''Clearing agencies, however, should incorporate in their rules a procedure pursuant to which participants and *registered clearing agencies* will normally receive the text *or a brief description of the proposed rule and its purpose and effect* in sufficient time, in view of the date by which the Commission may be expected to act upon the filing, to permit the participants and registered clearing agencies to comment to the Commission'') (*emphasis added*).

[15] 15 U.S.C. 78q–1(b)(3)(C).

[16] Pursuant to the proposed rule change, DTC would add the defined terms ''DTC Website'' and ''DTCC'' to Section 1 of Rule 1 (Definitions; Governing Law). ''DTC Website'' would be defined as ''any URL (Uniform Resource Locator) designated by the Corporation from time to time which may include DTCC's website at *https://www.dtcc.com*.'' ''DTCC'' would be defined as ''The Depository Trust & Clearing Corporation.''

[17] As a ministerial correction to Rule 27, DTC is also proposing to replace the term ''DTC officer'' with ''officer of the Corporation.''

[18] *See* DTC CA–1 Application for Permanent Registration as a Clearing Agency, dated December 15, 1980 (File 600–1) at page 594.

[19] Securities Exchange Act Release No. 78358 (July 19, 2016), 81 FR 48482 (July 25, 2016) (SR–DTC–2016–004).

[20] In 2019, EB applied and was approved by DTC for a delivery versus payment (''DVP'') Participant Account at DTC. In 2019, DTC filed a rule filing to make non-substantive changes to the Rule in order to reflect the change to the account structure of EB. *See* Securities Exchange Act Release No. 87474 (November 6, 2019), 84 FR 61670 (November 13, 2019) (SR–DTC–2019–010).

[21] For a description of Collateral Positioning, *see* Securities Exchange Act Release No. 78358 (July 19, 2016), 81 FR 48482 (July 25, 2016) (SR–DTC–2016–004).

[22] *See* Update on DTCC-Euroclear GlobalCollateral Joint Venture, *available at https://www.dtcc.com/news/2020/january/14/update-on-dtcc-euroclear-globalcollateral-joint-venture.*

(iii) Other Technical and Clarifying Changes

A. Rule 22 (Right to Contest Decisions)

a. Clarify the Time Period for an Interested Person To Request a Hearing

Rule 22 provides that a Participant or Pledgee, applicant to become a Participant or Pledgee or issuer of a Security, as the case may be (an ''Interested Person''), shall have an opportunity to be heard on any decision of DTC to take certain specified actions against such Interested Person.[23] The Rule provides that the Interested Person ''may request an opportunity to be heard by filing with the Secretary of [DTC], *within the applicable time period specified by these Rules,* a written request for a hearing . . . '' (*emphasis added*).[24] The time period, five Business Days, is not expressly stated in Rule 22.[25] Therefore, in order to enhance the transparency of the hearing process, DTC is proposing to amend Rule 22 to expressly reflect the five Business Day time period within which an Interested Person must file its request for a hearing under Rule 22.

Therefore, pursuant to the proposed rule change, DTC would amend Rule 22 to provide that an Interested Person may request an opportunity to be heard by filing with the Secretary of DTC, within five Business Days from the date on which DTC informed the Interested Person of an action or proposed action of DTC with respect to the Interested Person (or such other applicable time period specified by the Rules).

In sum, DTC believes that by clarifying the DTC time period for an Interested Person to request a hearing, the proposed rule change would provide transparency for Participants with respect to their rights to a hearing under the Rules.

b. Align the DTC Process of Appointing a Hearing Panel With the NSCC Panel Selection Process

Currently, Section 5 of Rule 22 provides that ''[a] hearing requested in connection with any matter which is not deemed a ''Minor Rule Violation'' as defined in Section 4 of this Rule, and any hearing requested in connection with an appeal of the decision of the Minor Rule Violation Panel, shall be before three members of a panel (a ''Panel'') selected by the Chairman of the Board from a pool (a ''Pool'') of Persons employed by or partners of Participants. Persons shall be appointed members of the Pool by the Board of Directors or the Chairman of the Board. Notwithstanding the above, the Panel shall not include any Person who had responsibility for the action or proposed action of the Corporation as to which the hearing relates.'' [26]

In contrast, Rule 37 of the National Securities Clearing Corporation (''NSCC'') Rules and Procedures (''NSCC Rules'') provides that the hearing would be before a panel of three individuals drawn from members of the Board of Directors or their designees, and that the members of the Panel would be selected by the Chairman of the Board. Further, in addition to excluding from the panel any individual who had responsibility for the action or proposed action of NSCC as to which the hearing relates, NSCC Rule 37 also excludes any individual representing the Interested Person against which the proposed action is to be taken.[27]

DTC believes that panel selection process set forth in NSCC Rule 37 provides (i) a more straightforward and streamlined process than the current DTC process, which requires the additional step of selecting a Pool of potential panelists, a subset of which would then be selected for the Panel, and (ii) clearer guidance about avoiding conflicts of interests on the Panel. Further, DTC believes that aligning its Panel selection process with that of NSCC would provide enhanced efficiency for the DTC hearing process, as well as provide transparency and consistent treatment for Participants, particularly for a Participant that is a common member of NSCC that may have concurrent rights to a hearing under the Rules and the NSCC Rules.

Accordingly, DTC is proposing to replace the first two paragraphs of Section 5 of Rule 22 with the following two paragraphs:

A hearing requested in connection with any matter which is not deemed a ''Minor Rule Violation'' as defined in Section 4 of this Rule, and any hearing requested in connection with an appeal of the decision of the Minor Rule Violation Panel, shall be before three members of a panel (a ''Panel'') drawn from members of the Board of Directors or their designees. The members of the Panel shall be selected by the Chairman of the Board.

Notwithstanding the above, the Panel shall not include any individual representing the Interested Person against which the proposed action will be taken, nor any Person who had responsibility for the action or proposed action of the Corporation as to which the hearing relates.

B. Align Rule 23 (Bills Rendered) With NSCC Rule 26 (Bills Rendered)

Rule 23 (Bills Rendered) currently provides that ''[t]he Corporation shall render bills to Participants in the manner specified in the Procedures for charges on account of services provided or fines imposed.'' DTC is proposing to amend this Rule to align with NSCC Rule 26 (Bills Rendered), which provides additional details about the process that is applicable to both DTC and NSCC.[28] Specifically, DTC would amend Rule 23 to state that ''[t]he Corporation shall render bills to Participants for charges on account of services provided or fines imposed and shall charge their respective accounts with the amounts thereof on or before such date as determined by the Corporation from time to time.'' DTC believes that aligning the language of Rule 23 with the analogous NSCC Rule 26 would provide transparency and consistent treatment of the rendering and payment of bills for Participants, in particular for Participants that are also members of NSCC.

[23] *See* Section 1 of Rule 22, *supra* note 5 (stating that an Interested Person ''shall have an opportunity to be heard on any decision of the Corporation: (a) Which proposes to deny the applicant's application to become a Participant or Pledgee; (b) to cease to act for the Participant pursuant to Rule 10, 11 or 12; (c) to summarily suspend and close the Accounts of the Participant or Pledgee pursuant to the Exchange Act; (d) to terminate its agreement with the Pledgee, as provided in Section 3 of Rule 2; (e) which proposes to impose a disciplinary sanction pursuant to Rule 21; or (f) any determination of the Corporation that an Eligible Security shall cease to be such.'')

[24] *See* Section 2 of Rule 22, *supra* note 5.

[25] The five Business Day time period is specified in Rule 21, *supra* note 5 (''The sanction proposed may be imposed by the Chairman of the Board, the President or the Secretary unless, *within five Business Days after notification* of such proposed sanction, the Participant or Pledgee provides notice of its desire to contest the sanction, as provided in Rule 22.'') (*emphasis added*). *See also* Securities Exchange Act Release No. 57406 (February 29, 2008), 73 FR 12236 (March 6, 2008) (SR–DTC–2007–06) (providing that ''an Interested Person has five business days from the date on which DTC first informs it of a sanction or a denial of membership in which to request a hearing.'').

[26] *Supra* note 5.

[27] *See* Section 4 of NSCC Rule 37 (''A hearing on any matter not covered by Section 2 of this rule, or a further hearing requested pursuant to Section 2 shall be before a panel (hereinafter the ''Panel'') of three individuals drawn from members of the Board of Directors or their designees. The members of the Panel shall be selected by the Chairman of the Board. Notwithstanding the above, the Panel shall not include any individual representing the Interested Person against which the proposed action is to be taken, nor any person who had responsibility for the action or proposed action of the Corporation as to which the hearing relates.''). The NSCC Rules are *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[28] NSCC Rule 26 provides, in relevant part, that ''[t]he Corporation will render bills to Members . . . for charges on account of the business of any month and will charge their respective accounts with the amounts thereof on or before such date as determined by the Corporation from time to time.'' *Supra* note 27.

C. Replace References to Vice President With Executive Director

In 2018, DTC determined that the title of ''Vice President'' should be replaced by the title ''Executive Director.'' [29] DTC is proposing to amend the Rules to replace the term ''Vice President,'' which appears in Section 3 of Rule 1 and in Rule 28, with the term ''Executive Director.''

D. Amend the By-Laws

Pursuant to the proposed rule change, DTC is proposing to amend Article V of the By-Laws to expressly provide that designees of the Board of Directors have the power to interpret the Rules of DTC. This amendment would provide consistency across the overlapping Boards of Directors of the three DTCC registered clearing agencies, DTC, NSCC,[30] and the Fixed Income Clearing Agency (''FICC'').[31]

Implementation Timeframe

DTC would implement the proposed changes no earlier than thirty (30) days after the date of filing, or such shorter time as the Commission may designate. As proposed, a legend would be added to the Rules stating there are changes that were effective upon filing but have not yet been implemented. The legend would also state that DTC would implement the proposed changes no earlier than thirty (30) days after the date of filing, or such shorter time as the Commission may designate. The proposed legend would state that the legend would automatically be removed upon the implementation of the proposed changes. DTC would announce the implementation date of the proposed changes by Important Notice posted to its website.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.[32]

DTC believes that the proposed changes to amend and clarify certain notice provisions relating to proposed rule changes and changes to the Procedures would enhance the efficiency of DTC's process for notifying its Participants and Pledgees about changes to its Rules and Procedures. As discussed above in detail, DTC believes that Participants and Pledgees are already provided adequate notice of any rule changes, including changes to its Procedures, through the rule change process. As such, the requirements for DTC to immediately provide notice of any proposal it has made to change any Rule to provide ten Business Days' notice of changes to Procedures are impractical and unnecessary and therefore can negatively impact the efficiency of the process. Specifically, because DTC is already subject to—and complies with—the time periods required by the Act and Dodd Frank,[33] DTC believes that self-imposed requirements to provide notice more quickly (in the case of proposed rule changes) or farther in advance (in case of changes to Procedures) than what is required by statute is unnecessary. In addition, DTC believes that the requirements are impractical because (i)(x) the requirement to immediately give notice requires DTC to coordinate an almost simultaneous submission of a proposed rule filing and notification to Participants, Pledgees, and registered clearing agencies, and (y) Participants, Pledgees, and registered clearing agencies would not be prejudiced by the delta between immediately and promptly; and (ii) the requirement to provide Participants and Pledgees notice of changes to Procedures ten Business Days in advance, especially when such parties already receive adequate notice of the changes, could cause delays in the rule filing process and/or the implementation of an amended rule and procedure. Accordingly, DTC believes that, by removing unnecessary and impractical timing requirements for notice, the proposed rule change is designed to enhance the efficiency of DTC's notice process and implementation of the amended Rules and Procedures, thereby promoting the prompt and accurate clearance and settlement of securities transactions, as provided under such amended Rules and Procedures. As such, DTC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act, cited above.

DTC believes that the proposed rule change to make technical and clarifying changes, in particular (i) removing obsolete Rules 8 and 34, (ii) replacing references to Vice President with Executive Director in Rules 1 and 28, (iii) amending the Bylaws to expressly provide that designees of the Board of Directors have the power to interpret the Rules, (iv) amending Rule 22 to enhance the transparency around, and efficiency of, the hearing process for Interested Persons, and (v) amend Rule 23 to align the text with a parallel NSCC Rule would enhance the clarity and transparency of the Rules. By enhancing the clarity and transparency of the Rules, the proposed rule change would allow Participants to more efficiently and effectively conduct their business in accordance with the Rules. Therefore, DTC believes that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions consistent with Section 17A(b)(3)(F) of the Act, cited above.

(B) Clearing Agency's Statement on Burden on Competition

DTC believes that the proposed rule change to amend and clarify certain notice provisions relating to proposed rule changes and changes to Procedures would not have any impact on competition. While the proposed change would impact the rights and obligations of Participants and Pledgees to receive notices more quickly (in the case of proposed rule changes) or farther in advance (in case of changes to Procedures) than what is required by statute, the impact of the proposed changes on the Participants and Pledgees would be minimal. As discussed above, DTC believes that the proposed changes to the notice provisions are removing unnecessary and impractical timing requirements for notices, and Participants and Pledgees would continue to receive adequate notice under the rule change process and continue to be treated equally with respect to such notices. As such, DTC believes the proposed rule change to amend and clarify certain notice provisions relating to proposed rule changes and changes to Procedures would not have any impact on competition.[34]

DTC believes that the proposed rule change to make technical and clarifying changes described herein would not have any impact on competition because it would enhance the clarity and transparency of the Rules and therefore would not affect the rights or obligations of any party. Accordingly, DTC does not believe that the proposed rule change would have any impact on competition.[35]

[29] Securities Exchange Act Release No. 82915 (March 20, 2018), 83 FR 12970 (March 26, 2018) (SR–DTC–2018–001).

[30] NSCC Rule 47 provides, in part, ''The Board of Directors of the Corporation or their designee(s) shall have the authority to interpret the Rules of the Corporation.'' *Supra* note 27.

[31] Rule 47 of the Government Securities Division Rulebook of FICC (''FICC GSD Rules'') provides, in part, ''The Board of Directors of the Corporation or their designee(s) shall have the authority to interpret the Rules of the Corporation.'' The FICC GSD Rules are *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[32] 15 U.S.C. 78q–1(b)(3)(F).

[33] *See supra* notes 9 and 10.

[34] 15 U.S.C. 78q–1(b)(3)(I).

[35] *Id.*

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at *https://www.sec.gov/regulatory-actions/how-to-submit-comments*. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[36] of the Act and Rule 19b–4(f)(6) thereunder;[37] and

(iv) DTC would announce the implementation date of the proposed changes by Important Notice posted to its website.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[36] 15 U.S.C. 78s(b)(3)(A).

[37] 17 CFR 240.19b–4(f)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–DTC–2021–015 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2021–015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2021–015 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23918 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93462; File No. SR–EMERALD–2021–37]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX Emerald, LLC To Amend Exchange Rule 501, Days and Hours of Business, To Make Juneteenth National Independence Day a Holiday of the Exchange

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 2021, MIAX Emerald, LLC (''MIAX Emerald'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 501, Days and Hours of Business, Interpretation and Policy .02, to make Juneteenth National Independence Day a holiday of the Exchange. Juneteenth National Independence Day was designated a legal public holiday in June 2021.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald* at MIAX Emerald's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

[38] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 501, Days and Hours of Business, Interpretation and Policy .02, to make Juneteenth National Independence Day a holiday of the Exchange. On June 17, 2021, Juneteenth National Independence Day was designated a legal public holiday.[3] Consistent with broad industry sentiment [4] and the approach recommended by the Securities Industry and Financial Markets Association (''SIFMA''),[5] the Exchange proposes to add ''Juneteenth National Independence Day'' to the existing list of holidays in Exchange Rule 501, Interpretation and Policy .02. As a result, the Exchange will not be open for business on Juneteenth National Independence Day, which falls on June 19 of each year. In accordance with Exchange Rule 501, Interpretation and Policy .02, when the holiday falls on a Saturday, the Exchange will not be open for business on the preceding Friday, and when it falls on a Sunday, the Exchange will not be open for business on the succeeding Monday.[6]

The first sentence of Interpretation and Policy .02 would read as follows (proposed additions italicized):

The Board of Directors has determined that the Exchange will not be open for business on New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Good Friday, Memorial Day, *Juneteenth National Independence Day,* Independence Day, Labor Day, Thanksgiving Day or Christmas Day.

[3] Public Law 117–17.

[4] *See, e.g., https://www.bloomberg.com/news/articles/2021-06-18/bofa-makes-juneteenth-a-holiday-joining-jpmorgan-wells-fargo?sref=HhuelscO.*

[5] SIFMA recommends a full market close in observance of Juneteenth National Independence Day. *See https://www.sifma.org/resources/general/holiday-schedule/. See* also *https://www.sifma.org/resources/news/sifma-revises-2022-fixed-income-market-close-recommendations-in-the-u-s-to-include-full-close-for-juneteenth-national-independence-day/.*

[6] Exchange Rule 501. There is an exception to the practice if unusual business conditions exist. *Id.*

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [7] in general, and furthers the objectives of Section 6(b)(5) of the Act [8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed change promotes just and equitable principles of trade and removes impediment to and perfects the mechanism of a free and open market and a national market system because the proposed rule change would clearly state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 fell on a Saturday or Sunday. The change would thereby promote clarity and transparency in the Exchange's Rules by updating the list of holidays of the Exchange. The proposed rule change was based on recent proposals by NYSE Arca, Inc., New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc.[9] Therefore, the proposed change does not raise any new or novel issues. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather to amend the Exchange Rule regarding days and hours of business.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative prior to 30 days after the date of the filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because the proposed rule change, as described above, would state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 fell on a Saturday or Sunday. The Exchange further states that the proposed change does not raise any new or novel issues. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Securities Exchange Act Release Nos. 93186 (September 30, 2021), 86 FR 55041 (October 5, 2021) (SR–NYSEArca–2021–85); 93183 (September 30, 2021), 86 FR 55068 (October 5, 2021) (SR–NYSE–2021–56); 93187 (September 30, 2021), 86 FR 55069 (October 5, 2021) (SR–NYSEAmer–2021–39); 93182 (September 30, 2021), 86 FR 55083 (October 5, 2021) (SR–NYSECHX–2021–13); 93179 [sic] (September 30, 2021), 86 FR 55033 (October 5, 2021) (SR–NYSENAT–2021–18).

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

designates the proposed rule change operative upon filing.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EMERALD–2021–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–EMERALD–2021–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EMERALD–2021–37, and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23934 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

[15] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93454; File No. SR–CboeBZX–2021–072]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 25, 2021, Cboe BZX Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX Options'') proposes to extend the pilot programs in connection with the listing and trading of P.M.-settled series on certain broad-based index options. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change extends the listing and trading of P.M.-settled series on certain broad-based index options on a pilot basis.[5] Rule 29.11(a)(6) currently

[5] The Exchange is authorized to list for trading options that overlie the Mini-SPX Index (''XSP'') and the Russell 2000 Index (''RUT''). *See* Rule 29.11(a). *See also* Securities Exchange Act Release Nos. 84480 (October 24, 2018), 83 FR 54635 (October 30, 2018) (Notice of Filing of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options on a Pilot Basis) (SR–CboeBZX–2018–066) (''Notice''); 85181 (February 22, 2019), 84 FR 6842 (February 28, 2019) (Notice of Deemed Approval of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options on a Pilot Basis) (SR–CboeBZX–2018–066); 88052 (January 27, 2020), 85 FR 5753 (January 31, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeBZX–2020–004); 88788 (April 30, 2020), 85 FR 27008 (May 6, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeBZX–2020–

Continued

permits the listing and trading of XSP options with third-Friday-of-the-month expiration dates, whose exercise settlement value will be based on the closing index value on the expiration day (''P.M.-settled'') on a pilot basis set to expire on November 1, 2021 (the ''XSPPM Pilot Program''). Rule 29.11(j)(3) also permits the listing and trading of P.M.-settled options on broad-based indexes with weekly expirations (''Weeklys'') and end-of-month expirations (''EOMs'') on a pilot basis set to expire on November 1, 2021 (the ''Nonstandard Expirations Pilot Program'', and together with the XSPPM Pilot Program, the ''Pilot Programs''). The Exchange proposes to extend the Pilot Programs through May 2, 2022.

XSPPM Pilot Program

Rule 29.11(a)(6) permits the listing and trading, in addition to A.M.-settled XSP options, of P.M.-settled XSP options with third-Friday-of-the-month expiration dates on a pilot basis. The Exchange believes that continuing to permit the trading of XSP options on a P.M.-settled basis will continue to encourage greater trading in XSP options. Other than settlement and closing time on the last trading day (pursuant to Rule 29.10(a)),[6] contract terms for P.M.-settled XSP options are the same as the A.M.-settled XSP options. The contract uses a $100 multiplier and the minimum trading increments, strike price intervals, and expirations are the same as the A.M.-settled XSP option series. P.M.-settled XSP options have European-style exercise. The Exchange also has flexibility to open for trading additional series in response to customer demand.

If the Exchange were to propose another extension of the XSPPM Pilot Program or should the Exchange propose to make the XSPPM Pilot Program permanent, the Exchange would submit a filing proposing such amendments to the XSPPM Pilot Program. Further, any positions established under the XSPPM Pilot Program would not be impacted by the expiration of the XSPPM Pilot Program. For example, if the Exchange lists a P.M.-settled XSP option that expires after the XSPPM Pilot Program expires (and is not extended), then those positions would continue to exist. If the pilot were not extended, then the positions could continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

As part of the XSPPM Pilot Program, the Exchange submits a pilot report to the Commission at least two months prior to the expiration date of the pilot.[7] This annual report contains an analysis of volume, open interest, and trading patterns. In proposing to extend the XSPPM Pilot Program, the Exchange will continue to abide by the reporting requirements described in the Notice.[8] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the XSPPM Pilot Program is consistent with the Exchange Act. The Exchange makes its annual data and analyses previously submitted to the Commission under the Pilot Program public on its website and will continue to make public any data and analyses it submits to the Commission under the Pilot Program in the future. The Exchange also notes that its affiliated options exchange, Cboe Exchange, Inc. (''Cboe Options'') currently has pilots that permit P.M.-settled third Friday-of-the-month XSP options.[9]

Nonstandard Expirations Pilot Program

Rule 29.11(j)(1) permits the listing and trading, on a pilot basis, of P.M.-settled options on broad-based indexes with nonstandard expiration dates and is currently set to expire on November 1, 2021. The Nonstandard Expirations Pilot Program permits both Weeklys and EOMs as discussed below. Contract terms for the Weekly and EOM expirations are similar to those of the A.M.-settled broad-based index options, except that the Weekly and EOM expirations are P.M.-settled.

In particular, Rule 29.11(j)(1) permits the Exchange to open for trading Weeklys on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM). Weeklys are subject to all provisions of Rule 29.11 and are treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, under the Nonstandard Expirations Pilot Program, Weeklys are P.M.-settled, and new Weekly series may be added up to and including on the expiration date for an expiring Weekly.

Rule 29.11(a)(2) permits the Exchange to open for trading EOMs on any broad-based index eligible for standard options trading to expire on the last trading day of the month. EOMs are subject to all provisions of Rule 29.11 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, under the Nonstandard Expirations Pilot Program, EOMs are P.M.-settled, and new series of EOMs may be added up to and including on the expiration date for an expiring EOM.

As stated above, this proposed rule change extends the Nonstandard Expirations Pilot Program for broad-based index options on a pilot basis, for a period of six months. If the Exchange were to propose an additional extension of the Nonstandard Expirations Pilot Program or should the Exchange propose to make it permanent, the Exchange would submit additional filings proposing such amendments. Further, any positions established under the Nonstandard Expirations Pilot Program would not be impacted by the expiration of the pilot. For example, if the Exchange lists a Weekly or EOM that expires after the Nonstandard Expirations Pilot Program expires (and is not extended), then those positions would continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

As part of the Nonstandard Expirations Pilot Program, the Exchange submits a pilot report to the Commission at least two months prior to the expiration date of the pilot.[10] This annual report contains an analysis of volume, open interest, and trading patterns. In proposing to extend the

038); and 90255 (October 22, 2020), 85 FR 68378 (October 28, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeBZX–2020–076); *and* 91699 (April 28, 2021), 86 FR 23767 (May 4, 2021) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeBZX–2021–031).

[6] Rule 29.10(a) permits transactions in P.M.-settled XSP options on their last trading day to be effected on the Exchange between the hours of 9:30 a.m. and 4:00 p.m. Eastern time. All other transactions in index options are effected on the Exchange between the hours of 9:30 a.m. and 4:15 p.m. Eastern time.

[7] The Exchange notes that the Pilot Programs currently run on a bi-annual pilot basis.

[8] *See supra* note 5.

[9] *See* Cboe Options Rule 4.13.13, which also permits P.M.-settled third Friday-of-the-month SPX options on a pilot basis (''SPXPM Pilot Program''). The Exchange notes that, prior to the proposed May 2, 2022 Pilot Programs expiration date, Cboe Options intends to submit a proposal to make its SPXPM Pilot Program permanent. Following the Commission's review and approval of Cboe Options' proposal, the Exchange intends to file a similar proposal to make its XSPPM Pilot Program permanent.

[10] *See supra* note 7.

Nonstandard Expirations Pilot Program, the Exchange will continue to abide by the reporting requirements described in the Notice.[11] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Nonstandard Expirations Pilot Program is consistent with the Exchange Act. The Exchange is in the process of making public on its website data and analyses previously submitted to the Commission under the Pilot Program, and will make public any data and analyses it submits to the Commission under the Pilot Program in the future. The Exchange notes that other exchanges, including its affiliated exchange, Cboe Options, currently have pilots that have weekly and end-of-month expirations.[12]

Additional Information

The Exchange believes there is sufficient investor interest and demand in the XSPPM and Nonstandard Expirations Pilot Programs to warrant their extension. The Exchange believes that the Programs have provided investors with additional means of managing their risk exposures and carrying out their investment objectives. The proposed extensions will continue to offer investors the benefit of added transparency, price discovery, and stability, as well as the continued expanded trading opportunities in connection with different expiration times. The Exchange proposes the extension of the Pilot Programs in order to continue to give the Commission more time to consider the impact of the Pilot Programs. To this point, the Exchange believes that the Pilot Programs have been well-received by its Members and the investing public, and the Exchange would like to continue to provide investors with the ability to trade P.M.-settled XSP options and contracts with nonstandard expirations. All terms regarding the trading of the Pilot Products shall continue to operate as described in the XSPPM and Nonstandard Expirations Notice.[13] The Exchange merely proposes herein to extend the terms of the Pilot Programs to May 2, 2022.

Furthermore, the Exchange has not experienced any adverse market effects with respect to the Programs. The Exchange will continue to monitor for any such disruptions or the development of any factors that would cause such disruptions. The Exchange represents it continues to have an adequate surveillance program in place for index options and that the proposed extension will not have an adverse impact on capacity.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes that the proposed extension of the Pilot Programs will continue to provide greater opportunities for investors. The Exchange believes that the Pilot Programs have been successful to date. The proposed rule change allows for an extension of the Program for the benefit of market participants. The Exchange believes that there is demand for the expirations offered under the Program and believes that P.M.-settled XSP, Weekly Expirations and EOMs will continue to provide the investing public and other market participants with the opportunities to trade desirable products and to better manage their risk exposure. The proposed extension will also provide the Commission further opportunity to observe such trading of the Pilot Products. Further, the Exchange has not encountered any problems with the Programs; it has not experienced any adverse effects or meaningful regulatory or capacity concerns from the operation of the Pilot Programs. Also, the Exchange believes that such trading pursuant to the XSPPM Pilot Program has not, and will not, adversely impact fair and orderly markets on Expiration Fridays for the underlying stocks comprising the S&P 500 index.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Programs, the proposed rule change will allow for further analysis of the Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

Specifically, the Exchange does not believe the continuation of the Pilot Program will impose any unnecessary or inappropriate burden on intramarket competition because it will continue to apply equally to all BZX Options market participants, and the Pilot Products will continue to be available to all BZX Options market participants. The Exchange believes there is sufficient investor interest and demand in the Pilot Programs to warrant its extension. The Exchange believes that, for the period that the Pilot Programs has been in operation, it has provided investors with desirable products with which to trade. Furthermore, as stated above, the Exchange maintains that it has not experienced any adverse market effects or regulatory concerns with respect to the Pilot Programs. The Exchange further does not believe that the proposed extension of the Pilot Programs will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only applies to trading on BZX Options. To the extent that the continued trading of the Pilot Products may make BZX Options a more attractive marketplace to market participants at other exchanges, such market participants may elect to become BZX Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public

[11] *See supra* note 5.

[12] *See* Cboe Options Rule 4.13(e); and Phlx Rule 1101A(b)(5).

[13] *See supra* note 5.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6)[18] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will allow it to extend the Pilot Programs prior to their expiration on November 1, 2021, and maintain the status quo, thereby reducing market disruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Pilot Programs to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Pilot Programs. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2021–072 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2021–072. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2021–072 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23929 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93444; File No. SR–BOX–2021–25]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Juneteenth National Independence Day a Holiday of the Exchange

October 28, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 15, 2021, BOX Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 7020(e) (Days and Hours of Business) to make Juneteenth National Independence Day a holiday of the Exchange. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BOX Rule 7020(e) (Days and Hours of Business) to make Juneteenth National Independence Day a holiday of the Exchange. This is a filing that is based on a proposal recently submitted by the New York Stock Exchange LLC (''NYSE'').[3]

On June 17, 2021, Juneteenth National Independence Day was designated a legal public holiday.[4] Consistent with broad industry sentiment [5] and the approach recommended by the Securities Industry and Financial Markets Association (''SIFMA''),[6] the Exchange proposes to add ''Juneteenth National Independence Day'' to the existing list of holidays in BOX Rule 7020(e). As a result, the Exchange will not be open for business on Juneteenth National Independence Day, which falls on June 19 of each year. In accordance with BOX Rule 7020(e), when the holiday falls on a Saturday, the Exchange will not be open for business on the preceding Friday, and when it falls on a Sunday, the Exchange will not be open for business on the succeeding Monday.[7]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the Exchange believes that the proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the proposed amended rule would clearly state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 fell on a Saturday or Sunday. The change would thereby promote clarity and transparency in the Exchange rules by updating the list of holidays of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed in response to a filing recently submitted by NYSE.[10] The proposed change is not designed to address any competitive issue but rather to amend the Exchange rule regarding holidays.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder. Because the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) [14] thereunder.

A proposed rule changed filed under Rule 19b–4(f)(6) [15] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The proposal raises no new or novel issues. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2021–25 on the subject line.

[3] *See* Securities Exchange Act Release No. 93183 (September 30, 2021), 86 FR 55068 (October 5, 2021) (Notice of Filing and Immediate Effectiveness SR–NYSE–2021–56).

[4] Public Law 117–17.

[5] *See, e.g., https://www.bloomberg.com/news/articles/2021-06-18/bofa-makes-juneteenth-a-holiday-joining-jpmorgan-wells-fargo?sref=Hhue1scO.*

[6] SIFMA recommends a full market close in observance of Juneteenth National Independence Day. *See https://www.sifma.org/resources/general/holidayschedule/. See also https://www.sifma.org/resources/news/sifma-revises-2022-fixed-income-market-close-recommendations-in-the-u-s-to-include-full-close-forjuneteenth-national-independence-day/.*

[7] *See* BOX Rule 7020(e). There is an exception to the practice if unusual business conditions exist at the time. *Id.*

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See supra,* note 3.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission. The Exchange has requested the Commission waive the standard five-day pre-filing requirement. The Commission grants the waiver.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2021–25. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2021–25 and should be submitted on or before November 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23920 Filed 11–2–21; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 11572]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Picasso: Painting the Blue Period'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Picasso: Painting the Blue Period'' at The Phillips Collection, Washington, District of Columbia, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Matthew R. Lussenhop,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2021–23902 Filed 11–2–21; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36549]

AppleAtcha Land, LLC—Acquisition and Operation Exemption—Vaughan Railroad Company

AppleAtcha Land, LLC (AppleAtcha), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Vaughan Railroad Company (Vaughan), and operate approximately 14 miles of rail line between milepost 7.5 near Belva, W. Va., and milepost 22.0 on Twentymile Creek, northeast of Vaughan, W. Va., in Nicholas and Fayette Counties, W. Va. (the Line).

The verified notice states that AppleAtcha and its affiliates have entered into a purchase and sale agreement with Vaughan and Vaughan's affiliates under which AppleAtcha will purchase the Line and certain other assets.[1] The verified notice states that, while the Line has not been used since 2012, AppleAtcha intends to provide service over the Line or contract with a third party should a customer require service.[2]

AppleAtcha certifies that its projected annual revenues as a result of this transaction will not exceed the maximum revenue of a Class III rail carrier and will not exceed $5 million. AppleAtcha also certifies that the proposed transaction does not contain any provisions that would prohibit Vaughan from interchanging traffic with a third party or limit AppleAtcha's ability to interchange traffic with a third-party.

The earliest this transaction may be consummated is November 17, 2021, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than November 10, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36549, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on AppleAtcha's representative, Andrew Fleischman, Kaplan Johnson Abate & Bird, LLP, 710 West Main Street, 4th Floor, Louisville, KY 40202.

According to AppleAtcha, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: October 29, 2021.

[18] 17 CFR 200.30–3(a)(12).

[1] The verified notice states that Southeastern Land, LLC previously received Board authority to acquire and operate the Line, *see Se. Land, LLC—Acquis. & Operation Exemption—Vaughan R.R.,* FD 36055 (STB served Aug. 24, 2016), but that, for unrelated business reasons, the transaction was never consummated and the Line is still owned by Vaughan.

[2] The verified notice notes that the Line is subject to a trackage rights agreement with CSX Transportation, Inc., and a separate trackage rights agreement with Norfolk Southern Railway. *See CSX Transp., Inc.—Trackage Rights Exemption—Vaughan R.R.,* FD 32695 (ICC served May 30, 1995); *Consol. Rail Corp.—Trackage Rights Exemption—Vaughan R.R.,* FD 32670 (ICC served May 3, 1995).

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2021–23990 Filed 11–2–21; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2020–1159]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 13, 2021. The information is used to determine if applicants satisfy requirements for renewing a launch license to protect the public from risks associated with reentry operations.

DATES: Written comments should be submitted by December 3, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Charles Huet by email at: *Charles.huet@faa.gov;* phone: 202–267–7427.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0643.

Title: Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulation.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 13, 2021 (86 FR 2729). The data is necessary for a U.S. citizen to apply for and obtain a reusable launch vehicle (RLV) mission license or a reentry license for activities by commercial or non-federal entities (that are not done by or for the U.S. Government) as defined and required by 49 U.S.C., Subtitle IX, Chapter 701, formerly known as the Commercial Space Launch Act of 1984, as amended. The information is needed in order to demonstrate to the FAA Office of Commercial Space Transportation (FAA/AST) that the proposed activity meets applicable public safety, national security, and foreign policy interests of the United States.

Respondents: Approximately 5 reusable launch vehicle or reentry vehicle operators.

Frequency: On occasion as needed.

Estimated Average Burden per Response: 5,400 Hours.

Estimated Total Annual Burden: 43,200 Hours.

Issued in Washington, DC, on October, 28, 2021.

James Hatt,

Manager, ASZ–200.

[FR Doc. 2021–23915 Filed 11–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No.–2021–0013]

Petition for Exemption; Summary of Petition Received; Southern Helicopter Inc.

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before November 23, 2021.

ADDRESSES: Send comments identified by docket number FAA–2021–0433 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 683–7788, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Caitlin Locke,

Acting Executive Deputy Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2021–0433.

Petitioner: Southern Helicopter Inc.

Section(s) of 14 CFR Affected: §§ 61.3(a)(1)(i), 91.7(a), 91.109(a), 91.119(c), 91.121, 91.151(b), 91.403(b), 91.405(a), 91.407(a)(1), 91.409(a)(1), 91.409(a)(2), 91.417(a), 91.417(b), 137.19(c), 137.19(d), 137.19(e)(2)(ii), (e)(2)(iii), and (e)(2)(v), 137.31(a), 137.31(b), 137.33(a), 137.33(b), 137.41(c), and 137.42.

Description of Relief Sought: Southern Helicopter Inc., petitioned the Federal Aviation Administration (FAA) to the extent necessary to operate the DJI Agras T20 unmanned aircraft system (''UAS'') weighing over 55 pounds (lbs.) but no more than 105 lbs., closer than 500 feet from vessels, vehicles, and structures to conduct agricultural aircraft operations. The petitioner is proposing to operate under the same Conditions and Limitations listed in Exemption No. 18413A, with a change to Condition and Limitation No. 16 to allow flight instruction for compensation.

[FR Doc. 2021–23906 Filed 11–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2021–0010]

Petition for Exemption; Summary of Petition Received; Victor Lee & Associates Inc.

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before November 23, 2021.

ADDRESSES: Send comments identified by docket number FAA–2018–0183 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 683–7788, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Caitlin Locke,

Acting Executive Deputy Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2018–0183.

Petitioner: Victor Lee & Associates Inc.

Section(s) of 14 CFR Affected: §§ 61.101(e)(4) and (5); 61.113(a) and (b); 61.315; 91.7(a); 91.109; 91.119(c); 91.121; 91.151(a); 91.405(a); 91.407(a)(1); 91.409(a)(1) and (2); and 91.417(a) and (b).

Description of Relief Sought: Victor Lee & Associates Inc., petitioned the Federal Aviation Administration (FAA) to the extent necessary to operate the SHOTOVER U1 unmanned aircraft system (''UAS'') with an upgraded propulsion system, to conduct aerial photography and videography operations at a maximum take-off weight of 132.2 pounds.

[FR Doc. 2021–23903 Filed 11–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Last Chance Grade Permanent Restoration Project on Interstate 101, in Del Norte County, California

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice of intent (NOI) to prepare a Draft Environmental Impact Statement (Draft EIS) for the Last Chance Grade Restoration Project on Interstate 101 (I–101).

SUMMARY: The FHWA, on behalf of the California Department of Transportation (Caltrans), is issuing this notice to advise the public that a Draft EIS will be prepared for the Last Chance Grade Permanent Restoration Project (Project), a proposed roadway improvement project on I–101, in Del Norte County, California. A separate Notice of Preparation of the Draft Environmental Impact Report (Draft EIR) has been issued by Caltrans to meet the requirements of the California Environmental Quality Act (CEQA).

DATES: This notice will be accompanied by a 30-day public scoping comment period from November 5, 2021 to December 6, 2021. The deadline for public comments is 5:00 p.m. (PST) on December 6, 2021. The Virtual scoping meeting will be held from 6:00 p.m. to 7:30 p.m. PST on Thursday, November 18, 2021.

ADDRESSES: Project information is available on the internet at *lastchancegrade.com.*

FOR FURTHER INFORMATION CONTACT: For Caltrans: Contact Steve Croteau, Senior Environmental Planner, Caltrans District 1, 1656 Union Street, Eureka, CA 95501, telephone 707–572–7149, or email *ScopingComments@lastchancegrade.com.*

For FHWA, contact David Tedrick, telephone (916) 498–5024, or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Caltrans as the assigned National Environmental Policy Act (NEPA) agency and CEQA lead

agency, will prepare a joint EIR/EIS on a proposal for improvements along a portion of I–101 known as ''Last Chance Grade'' in Del Norte County, California.

Last Chance Grade is the 3.5-mile-long section of I–101 (post mile [PM] 12.0 to 15.5) that runs between Wilson Creek to about 9 miles south of Crescent City. The Project area is almost entirely within portions of Redwood National and State Parks.

The Project would realign the highway in response to landslide and roadway failures which have caused damage for decades. The purpose of the project is to:

- Provide a more reliable connection
- Reduce maintenance costs
- Protect the economy, natural resources, and cultural resources

A geologic study in 2000 conducted for Caltrans by the California Geological Survey mapped over 200 historical and active landslides (both deep-seated and shallow) within the corridor between Wilson Creek and Crescent City. Over the years, Caltrans has conducted a considerable number of construction projects and maintenance activities in the Last Chance Grade area to keep the roadway open. Since 1997, landslide mitigation efforts, including retaining walls, drainage improvements, and roadway repairs have cost over $85 million. A long-term sustainable solution at Last Chance Grade is needed to address:

- Economic ramifications of a long-term failure and closure
- Risk of delay/detour to traveling public
- Increasing maintenance and emergency project costs
- Increase in frequency and severity of large storm events caused by climate change

Over the past several years, Caltrans has considered multiple alignment alternatives with input from numerous project partners in seeking a long-term feasible and sustainable solution suitable for the unique geologic and natural features of the project area. As a result of these past alternatives screening processes, Caltrans has elected to move forward with the environmental review of two action alternatives, Alternatives X and F.

Alternative X would involve reengineering the existing roadway. Within a portion of Alternative X, the roadway would retreat inland (to the east) by approximately 130 feet to improve geotechnical stability and longevity. Alternative X would involve constructing a series of retaining walls (single and terraced) to minimize the potential for landslides on the roadway. Depending on feasibility, drainage improvements might also be included for this alternative.

Alternative F would construct an approximately 10,000-foot-long tunnel that would diverge from the existing roadway near PM 14.06 and reconnect to US 101 near PM 15.5, thereby avoiding the surface portion of existing roadway most prone to landslides and geologic instability.

The Draft EIR/EIS will also study a No Project Alternative, which would entail no new long-term feasible and sustainable solution for Last Chance Grade but would instead be a continuation of ongoing maintenance and repair activities needed to enable ongoing roadway operations.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, Participating Agencies, Tribal governments, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. The Scoping period to submit comments is from November 5, 2021 to December 6, 2021. A public scoping meeting will be held virtually from 6:00 p.m. to 7:30 p.m. PST on November 18, 2021 from link at *lastchancegrade.com.* Comments on the NOI may be submitted by email: *ScopingComments@lastchancegrade.com;* or letter to 1656 Union Street, Eureka, CA 95501 with Attention to Steve Croteau, Senior Environmental Planner. In addition, a public hearing will be held once the Draft EIR/EIS is completed. Public notice will be given with the time and place of the meeting and hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to Caltrans at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: October 28, 2021.

Rodney Whitfield,

Director, Financial Services, Federal Highway Administration, California Division.

[FR Doc. 2021–23910 Filed 11–2–21; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2021–0014]

Title VI Implementation

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Request for information on Title VI implementation.

SUMMARY: The Federal Transit Administration (FTA) is considering amending Circular 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients (Title VI Circular) to incorporate lessons learned since its issuance on October 1, 2012. The Title VI Circular provides guidance and instructions to FTA recipients of Federal financial assistance on how to comply with requirements under Title VI of the Civil Rights Act of 1964 and the DOT Title VI regulations at 49 CFR part 21, which prohibit discrimination based on race, color, or national origin in federally funded programs. The agency is seeking suggestions from all transit stakeholders—including transit agencies, transit riders and community members, planning officials, States, cities, and the private sector—on enhancements that could be made to the Title VI Circular to provide clarity, to ensure Title VI requirements are met, and to advance equity. Specifically, FTA seeks input on requirements related to public participation, service and fare equity, facility equity analyses, implementation of rider conduct policies, and additional technical resources for determining and documenting disparate impact.

DATES: Comments should be submitted on or before December 3, 2021. FTA will consider comments filed after this date to the extent practicable.

ADDRESSES: You may file comments identified by docket number FTA–2021–0014 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Operations, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.

• *Fax:* (202) 493–2251.

All submissions received must include the agency name and docket number FTA–2021–0014. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided. You may review the U.S. Department of Transportation's (DOT) complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

For access to the docket to read background documents or comments received, go to *www.regulations.gov* at any time and search for docket number FTA–2021–0014.

FOR FURTHER INFORMATION CONTACT: For program questions, Richie Nguyen, Office of Civil Rights, (202) 366–2689 or *richie.nguyen@dot.gov.* For legal questions, Bonnie Graves, Office of Chief Counsel, (202) 366–0944 or *bonnie.graves@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: FTA Title VI Circular provides guidance to FTA recipients of Federal financial assistance on how to comply with requirements under Title VI and the DOT Title VI regulations, which prohibit discrimination based on race, color, or national origin in federally funded programs. The Title VI Circular provides specific compliance information for each type of recipient: Transit providers, States, and metropolitan planning organizations. The Title VI Circular also provides several appendices, including additional guidance and examples to help ensure recipients fulfill the requirements. The Title VI Circular was last updated in 2012.

Under the Title VI Circular, direct and primary recipients submit a Title VI Program demonstrating how the recipient is complying with Title VI requirements to FTA once every three years or as otherwise directed by FTA. FTA reviews Title VI Programs and their implementation through various oversight activities, including complaint investigations, Title VI Program Reviews, Specialized Title VI Compliance Reviews, and as part of Triennial Reviews and State Management Reviews. For more information on the existing Title VI Circular, please see *https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/title-vi-requirements-and-guidelines-federal-transit.*

Through this request for information (RFI), FTA seeks input to inform the development of changes to the existing Title VI Circular. The timing for publication of an update to the Title VI Circular is not certain. FTA poses 13 questions below and looks forward to feedback from all interested parties.

The Title VI Circular contains binding obligations, which 49 U.S.C. 5334(k) defines as ''a substantive policy statement, rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.'' Under 49 U.S.C. 5334(k), FTA may issue binding obligations if it follows notice and comment rulemaking procedures under 5 U.S.C. 553. Accordingly, prior to making any amendments that would create a new binding obligation or modify an existing one, FTA will follow such notice and comment rulemaking procedures.

Public Participation

1. The Title VI Circular currently requires recipients to submit and implement a public participation plan that includes an outreach plan to engage minority and limited English proficient (LEP) populations, as well as a summary of outreach efforts made since the last Title VI Program submission. In June 2021, U.S. DOT issued a revised Title VI Order Number DOT 1000.12C *on the U.S. DOT Title VI Program (Order),* which provides policy direction, practices, and standards to U.S. DOT Operating Administrations, including FTA, for establishing and maintaining an enforcement program that ensures Title VI compliance. The Order requires FTA to develop comprehensive community participation requirements (Community Participation Plan) that applicants and recipients must satisfy as a condition of receiving an award of Federal financial assistance. The goal of the Community Participation Plan is to ''facilitate full compliance with Title VI by requiring meaningful public participation and engagement to ensure that applicants and recipients are adequately informed about how programs or activities will potentially impact affected communities, and to ensure that diverse views are heard and considered throughout all stages of the consultation, planning, and decision-making process.'' The Order provides 10 effective practices that ensure proactive public engagement: establishment of goals and objectives, identification of affected communities, focused outreach, meaningful education, diverse communications, comprehensive engagement, meaningful participation, accessibility, reported outcomes, and recordkeeping. Which practices outlined in the Order should FTA incorporate in its guidance on promoting inclusive public participation? Are there additional effective practices FTA should consider?

2. What effective public participation practices are transit agencies currently using? How is meaningful access to public participation activities provided to traditionally underserved communities? How is effectiveness defined and measured?

Service and Fare Equity Analyses

3. The Title VI Circular currently requires transit providers that operate 50 or more fixed route vehicles in peak service and are located in an Urbanized Area (UZA) of 200,000 or more in population to prepare and submit service and fare equity (SAFE) analyses as described in Chapter IV. These SAFE analyses are conducted prior to implementing service or fare changes, but they are submitted to FTA as part of a recipient's Title VI program once every three years. Due to this gap in time, FTA may not become aware of major service changes or fare changes and the related equity analyses until years after the changes have been made and the analyses conducted. Should FTA require a SAFE analysis be posted on a recipient's website or submitted to FTA prior to the service or fare change being enacted, in addition to submission with the recipient's Title VI program? If so, how soon after an analysis is conducted or before a change is approved or implemented should FTA require posting or submission?

4. For major service change, disparate impact, and disproportionate burden thresholds, the Title VI Circular does not set values or limits. Regarding major service change thresholds, the Circular states, ''The threshold for analysis shall not be set so high so as to never require an analysis; rather, agencies shall select a threshold most likely to yield a meaningful result in light of the transit provider's system characteristics.'' Should FTA set a value or limit on major service change, disparate impact, or disproportionate burden thresholds? If so, what should that value or limit be—or what factors should be evaluated?

5. The Title VI Circular explains existing public participation requirements for development of major service change policies, disparate impact policies, and disproportionate burden policies. Should FTA address public participation where a transit provider finds a potential disparate impact or disproportionate burden, specifically with regard to analysis of modifications to avoid, minimize, or mitigate potential disparate impacts?

6. The Title VI Circular provides two data analysis options for conducting a service equity analysis: Using population data or using ridership data. Should FTA provide additional options for conducting a service or fare equity analysis? If so, what alternatives should FTA consider?

7. The Title VI Circular provides that service equity is measured based on access to public transit service. Is this measure sufficient to ensure equity, or should it be measured by destinations, such as how many jobs riders can access from a particular stop within a specified time, or how long it takes to get to grocery stores, medical facilities, and other critical destinations, or by some other measure?

8. The Title VI Circular provides that temporary service changes (12 months or less) and temporary fare reductions (6 months or less) do not respectively require service and fare equity analyses. Should FTA reconsider these timeframes? Should FTA require some analysis during temporary changes to consider the equity impacts of the temporary changes?

Facility Equity Analyses

9. The Title VI Circular, with regard to the determination of site or location of facilities, requires a Title VI facility equity analysis, in which a recipient must analyze the proposed location of certain facilities to ensure there is no disparate impact in the siting decision. FTA provides limited guidance in the Circular on this topic but does require a comparison of equity impacts of various siting alternatives and an analysis before the selection of the preferred site. Should FTA provide additional guidance on facility equity analyses, including public participation, disparate impact thresholds, cumulative effects, or timeframes? Would stakeholders find it helpful if FTA published a sample facility equity analysis, similar to the sample SAFE analyses, in the Appendix to the Circular?

10. These facility equity analyses are conducted prior to site selection, but they are submitted to FTA as part of a recipient's Title VI program once every three years. Due to this gap in time, FTA may not become aware of facility siting and related equity analyses until years after they have been constructed or conducted. Should FTA require a facility equity analysis be posted on a recipient's website or submitted to FTA prior to site selection, in addition to submission with the recipient's Title VI program? If so, how soon after an analysis is conducted or before a change is approved or implemented should FTA require posting or submission?

Implementation of Rider Conduct Policies

11. The Title VI Circular currently makes no mention of equitable implementation of rider conduct policies, such as prohibitions on smoking, littering, loitering, eating on vehicles, evading fares, or playing music loudly. Given the potential for disparate impacts on the basis of race, color, or national origin in the implementation of these policies, which is prohibited by DOT Title VI regulations, FTA is considering how to address these topics. To ensure compliance with Title VI, how should FTA address the equitable implementation of rider conduct policies?

Technical Resources for Analyzing Disparate Impact

12. FTA Regional Civil Rights Officers and Headquarters staff field many technical assistance requests from transit providers asking how to determine disparate impact and how to evaluate service and fare changes for equity. These include transit providers who do not yet meet the Chapter IV thresholds that require SAFE analyses or demographic data collection and reporting. What commendable practices are transit providers, and in particular smaller providers not subject to the Chapter IV requirements, using to review their policies and practices to ensure their service and fare changes do not result in disparate impacts on the basis of race, color, or national origin?

Additional Title VI Circular Feedback

13. Should FTA consider incorporating guidance and instructions into the Title VI Circular on topics or policy matters not discussed in the questions above or not currently covered in the Circular? If so, what are those topics or policy matters? What commendable practices should FTA consider including? FTA welcomes any additional feedback on the Title VI Circular, including topics not listed in the questions above.

All interested parties are encouraged to respond to this RFI. Submissions are strictly voluntary. Individuals or entities responding to this RFI should state their role as well as knowledge of and experience with Title VI and the Title VI Circular. FTA may request additional clarifying information from any or all respondents. If a respondent does not wish to be contacted by FTA for additional information, a statement to that effect should be included in the response. All information submitted should be unclassified and should not contain proprietary information.

FTA is not obligated to officially respond to the information received, but the responses will assist FTA in developing proposed Title VI Circular changes.

Comments may be submitted and viewed at Docket No. FTA–2021–0014 at *https://www.regulations.gov.*

Nuria I. Fernandez,

Administrator.

[FR Doc. 2021–23965 Filed 11–2–21; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and vessel that have been placed on OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. The vessel placed on the SDN List has been identified as property in which a blocked person has an interest.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On October 29, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are

blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810–AL–P

Individuals:

1. AGHAJANI, Saeed (a.k.a. ARA JANI, Saeed), Iran; DOB 03 Apr 1969; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport V47528711 (Iran); Brigadier General (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS AIR FORCE).

   Designated pursuant to section 1(a)(iii)(A) of Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism" (E.O. 13224), 3 CFR, 2001 Comp., p. 786, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041 (E.O. 13224, as amended) for having acted or purported to act for or on behalf of, directly or indirectly, the ISLAMIC REVOLUTIONARY GUARD CORPS AEROSPACE FORCE.

2. ZARGAR TEHRANI, Mohammad Ebrahim (a.k.a. ZARGAR TEHRANI, Mohammad Mohammad Ebrahim (Arabic: محمد محمد ابراهیم زرگر طهرانی); a.k.a. "JAHANI, Milad"), Iran; DOB 16 Sep 1983; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0070235759 (Iran) (individual) [SDGT] [IFSR] (Linked To: KIMIA PART SIVAN COMPANY LLC).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, KIMIA PART SIVAN COMPANY LLC.

3. ABOUTALEBI, Yousef (Arabic: یوسف ابو طالبی) (a.k.a. ABU-TALEBI, Yousef; a.k.a. ABUTALEBI, Yusef; a.k.a. ABU-TALEBI, Yusif), Iran; DOB 29 May 1983; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0384284094 (Iran) (individual) [NPWMD] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

   Designated pursuant to section 1(a)(iii) of Executive Order 13382 of June 28, 2005, 70 FR 38567, 3 CFR, 2006 Comp., p. 170 (E.O. 13382), for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of the ISLAMIC REVOLUTIONARY GUARD CORPS.

4. MEHRABI, Abdollah (Arabic: عبدالله محرابي; Arabic: عبدالله محرابی), Iran; DOB 22 Dec 1961; POB Khansar, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 1229632603 (Iran) (individual) [NPWMD] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS AEROSPACE FORCE SELF SUFFICIENCY JIHAD ORGANIZATION).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, the ISLAMIC REVOLUTIONARY GUARD

CORPS AEROSPACE FORCE RESEARCH AND SELF-SUFFICIENCY JIHAD ORGANIZATION.

Entities:

1. KIMIA PART SIVAN COMPANY LLC (Arabic: □شركت كيميا پار□ سيوان با مسئوليت محدو□) (a.k.a. KIMIA PART SIVAN; a.k.a. "KIMIA PARTS SIBON"; a.k.a. "KIMIYA PARS SEBON"; a.k.a. "KIPAS"), 1st Street, 6th Side Street, No. 81, Jey Industrial Park, Isfahan 8376100000, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; National ID No. 10320661315 (Iran); Registration Number 47779 (Iran); alt. Registration Number 414950 (Iran) [SDGT] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE.

2. OJE PARVAZ MADO NAFAR COMPANY (Arabic: شركت اوج پرواز ما□و نفر) (a.k.a. OWJ PARVAZ MADO NAFAR COMPANY LLC), No. 1106, 11 Hemmat Corner, Hemmat Square, Hemmat Boulevard, Shokuhieh Industrial Town, Qom, Qom Province 3718116354, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; National ID No. 10590042155 (Iran); Registration Number 12121 (Iran) [NPWMD] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of the ISLAMIC REVOLUTIONARY GUARD CORPS.

On October 29, 2021, OFAC published revised information for the following vessel on OFAC's SDN List.

Vessel

1. OMAN PRIDE Crude Oil Tanker; Additional Sanctions Information—Subject to Secondary Sanctions; Vessel Registration Identification IMO 9153525 (vessel) [SDGT] (Linked To: BRAVERY MARITIME CORPORATION).

Identified on August 13, 2021 as property in which BRAVERY MARITIME CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

Dated: October 29, 2021.

Bradley T. Smith,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021–23964 Filed 11–2–21; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or the Assistant Director for Regulatory Affairs, tel. 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action

On October 26, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person is blocked under the relevant sanctions authority listed below.

Individual:

1. IBRAHIM, Osama Al Kuni (Arabic: أسامة الكوني ابراهيم) (a.k.a. AL KUNI, Osama; a.k.a. AL-MILAD, Osama; a.k.a. MILAD, Osama; a.k.a. "ZAWIYA, Osama"; a.k.a. "ZAWIYAH, Osama"), Zawiyah, Libya; DOB 04 Apr 1976; alt. DOB 02 Apr 1976; POB Tripoli, Libya; nationality Libya; Gender Male (individual) [LIBYA3].

Designated pursuant to section 1(a)(iii) of Executive Order 13726 of April 19, 2016, "Blocking Property and Suspending Entry Into the United States of Persons Contributing to the Situation in Libya" (E.O. 13726) for being involved in, or having been involved in, the targeting of civilians through the commission of acts of violence, abduction, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights or a violation of international humanitarian law.

Dated: October 26, 2021.

Bradley T. Smith,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021–23943 Filed 11–2–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning third-party disclosure requirements in IRS regulations.

DATES: Written comments should be received on or before January 3, 2022, to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson, at (202) 317–5753, or at internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Third-Party Disclosure Requirements in IRS Regulations.

OMB Number: 1545–1466.

Abstract: These existing regulations contain third-party disclosure requirements that are subject to the Paperwork Reduction Act of 1995.

Current Actions: There are no changes being made to these regulations at this time. However, IRS is reducing burden associated with duplicative regulations accounted for in other OMB control number collections.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 130,727,849.

Estimated Time per Respondent: Varies. Average response time 15 minutes.

Estimated Total Annual Burden Hours: 33,931,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 28, 2021.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2021–23912 Filed 11–2–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 9779, 9783, and 14781

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Electronic Federal Tax Payment System (EFTPS).

DATES: Written comments should be received on or before January 3, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Paul Adams, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Sara Covington, at (737) 800–6149, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Electronic Federal Tax Payment System (EFTPS).

OMB Number: 1545–1467.

Form Number: Forms 9779, 9783, and 14781.

Abstract: These forms are used by business and individual taxpayers to enroll in the Electronic Federal Tax Payment System (EFTPS). EFTPS is an electronic remittance processing system the Service uses to accept electronically transmitted federal tax payments. EFTPS (1) establishes and maintains a taxpayer data base which includes entity information from the taxpayers or their banks, (2) initiates the transfer of the tax payment amount from the taxpayer's bank account, (3) validates the entity information and selected elements for each taxpayer, and (4) electronically transmits taxpayer payment data to the IRS.

Current Actions: There are no changes being made to these forms, however forms 9787 and 9789 are obsoleted.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and state, local or tribal governments.

Estimated Number of Respondents: 698.

Estimated Time per Responses: .17.

Estimated Total Annual Burden Hours: 121.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 28, 2021.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2021–23914 Filed 11–2–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Federal Advisory Committee on Insurance

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces that the U.S. Department of the Treasury's Federal Advisory Committee on Insurance (FACI) will meet via videoconference on Thursday, December 2, 2021 from 12:30 p.m.–3:00 p.m. Eastern Time. The meeting is open to the public. The FACI provides non-binding recommendation and advice to the Federal Insurance Office (FIO) in the U.S. Department of Treasury.

DATES: The meeting will be held via videoconference on Thursday, December 2, 2021, from 12:30 p.m.–3:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held via videoconference and is open to the public. The public can attend remotely via live webcast: *www.yorkcast.com/treasury/events/2021/12/02/faci*. The webcast will also be available through the FACI's website: *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/federal-advisory-committee-on-insurance-faci*. Please refer to the FACI website for up-to-date information on this meeting. Requests for reasonable accommodations under Section 504 of the Rehabilitation Act should be directed to Mariam G. Harvey, Office of Civil Rights and Diversity, Department of the Treasury at (202) 622–0316, or *mariam.harvey@do.treas.gov*.

FOR FURTHER INFORMATION CONTACT: Jigar Gandhi, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220, at (202) 622–3220 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 10(a)(2), through implementing regulations at 41 CFR 102–3.150.

Public Comment: Members of the public wishing to comment on the business of the FACI are invited to submit written statements by either of the following methods:

Electronic Statements

- Send electronic comments to *faci@treasury.gov*.

Paper Statements

- Send paper statements in triplicate to the Federal Advisory Committee on Insurance, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220.

In general, the Department of the Treasury will make submitted comments available upon request without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. Requests for public comments can be submitted via email to *faci@treasury.gov*. The Department of the Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's Library, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–2000. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Tentative Agenda/Topics for Discussion: This will be the fourth FACI meeting of 2021. In this meeting, the FACI will discuss topics related to climate-related financial risk and the insurance sector. The FACI will also receive status updates from each of its

subcommittees and from FIO on its activities, and consider any new business.

Dated: October 29, 2021.

Steven Seitz,

Director, Federal Insurance Office.

[FR Doc. 2021–23949 Filed 11–2–21; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF THE TREASURY

Periodic Meeting of the U.S. Department of the Treasury Tribal Advisory Committee

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces that the U.S. Department of the Treasury Tribal Advisory Committee (TTAC) will convene a public meeting from 1:00 p.m.–4:00 p.m. Eastern Time on Wednesday, December 1, 2021. Due to COVID–19 safety concerns, the meeting will be held virtually via Zoom. The meeting is open to the public, and the video meeting is accessible to individuals with differing abilities.

DATES: The meeting will be held on Wednesday, December 1, 2021, from 1:00 p.m.–4:00 p.m. Eastern Time.

ADDRESSES: Due to COVID–19 safety concerns, the meeting will be held via video conference. Please register here. When registering you will be asked to state your name, title, and organizational affiliation and whether you wish to make public comments. It is recommended that you join the video conference 10 minutes before the meeting begins. Those wishing to make public comments should register no later than three business days before the Public Meeting. Written comments must be received 15 calendar days before the Public Meeting in order to be considered during the meeting. Written comments can be emailed to *TTAC@treasury.gov*. If you have questions regarding the meeting please email *TTAC@treasury.gov*.

If you require a reasonable accommodation, please contact the Departmental Offices Reasonable Accommodations Coordinator at *ReasonableAccommodationRequests@treasury.gov*. If requesting a sign language interpreter, please make sure your request to the Reasonable Accommodations Coordinator is made at least (5) five days prior to the event if at all possible.

FOR FURTHER INFORMATION CONTACT: Nancy Montoya, Treasury Tribal Affairs Program Coordinator, Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 1426G, Washington, DC 20220, at (202) 622–2031 (this is not a toll-free number) or by emailing *TTAC@treasury.gov*. Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 3 of the Tribal General Welfare Exclusion Act of 2014, Public Law 113–68, 128 Stat. 1883, enacted on September 26, 2014 (TGWEA), directs the Secretary of the Treasury (Secretary) to establish a seven member Tribal Advisory Committee to advise the Secretary on matters related to the taxation of Indians, the training of Internal Revenue Service field agents, and the provision of training and technical assistance to Native American financial officers.

Pursuant to Section 3 of the TGWEA and in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 1 *et seq.,* the TTAC was established on February 10, 2015, as the ''U.S. Department of the Treasury Tribal Advisory Committee.'' The TTAC's Charter provides that it shall operate under the provisions of the FACA and shall advise and report to the Secretary on:

(1) Matters related to the taxation of Indians;

(2) The establishment of training and education for internal revenue field agents who administer and enforce internal revenue laws with respect to Indian tribes of Federal Indian law and the Federal Government's unique legal treaty and trust relationship with Indian tribal governments; and

(3) The establishment of training of such internal revenue field agents, and provisions of training and technical assistance to tribal financial officers, about implementation of the TGWEA and any amendments.

Ninth Periodic Meeting

In accordance with section 10(a)(2) of the FACA and implementing regulations at 41 CFR 102–3.150, Krishna P. Vallabhaneni, the Designated Federal Officer of the TTAC, has ordered publication of this notice to inform the public that the TTAC will convene its ninth periodic meeting on Wednesday, December 1, 2021, from 1:00 p.m.–4:00 p.m. Eastern Time. Due to the COVID–19 pandemic, this meeting will be held via video conference.

Summary of Agenda and Topics To Be Discussed

During this meeting, the TTAC members will provide updates on the work of the TTAC's three subcommittees, hear comments from the public, and take other actions necessary to fulfill the TTAC's mandate.

Public Comments

Members of the public wishing to comment on the business of the TTAC are invited to submit written comments by any of the following methods:

Electronic Comments

- Send electronic comments to *TTAC@treasury.gov*. Comments are requested no later than 15 calendar days before the Public Meeting in order to be considered by the TTAC.

Paper Comments

- Send paper comments in triplicate to the Treasury Tribal Advisory Committee, Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 1426G, Washington, DC 20220.

The Department of the Treasury will post all comments received on its website (*https://www.treasury.gov/resource-center/economic-policy/tribal-policy/Pages/Tribal-Policy.aspx*) without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department of the Treasury will also make these comments available for public inspection and copying in the Department of the Treasury's Library, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–2000. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Krishna P. Vallabhaneni,

Tax Legislative Counsel.

[FR Doc. 2021–23909 Filed 11–2–21; 8:45 am]

BILLING CODE 4810–AK–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Event

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public event.

SUMMARY: Notice is hereby given of the following open public event of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a virtual public release of its 2021 Annual Report to Congress in Washington, DC on November 17, 2021.

DATES: The release is scheduled for Wednesday, November 17, 2021 at 10:30 a.m.

ADDRESSES: This release will be held online. Members of the public will be able to view a live webcast via the Commission's website at *www.uscc.gov.* Please check the Commission's website for possible changes to the event schedule and instructions on how to submit questions or participate in the question and answer session. Reservations are not required to attend.

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the event should contact Jameson Cunningham, 444 North Capitol Street NW, Suite 602, Washington DC 20001; telephone: 202–624–1496, or via email at *jcunningham@uscc.gov. Reservations are not required to attend. ADA Accessibility:* For questions about the accessibility of the event or to request an accommodation, please contact Jameson Cunningham at 202–624–1496, or via email at *jcunningham@uscc.gov.* Requests for an accommodation should be made as soon as possible, and at least five business days prior to the event.

SUPPLEMENTARY INFORMATION:

Topics To Be Discussed: The Commission's 2021 Annual Report to Congress addresses key findings and recommendations for Congressional action based upon the Commission's hearings, research, and review of the areas designated by Congress in its mandate, including focused work this year on: A review of economics, trade, security, politics, and foreign affairs developments in 2021; the Chinese Communist Party's ambitions and challenges and its centennial; China's influence in Latin America and the Caribbean; the Chinese Communist Party's economic and technological ambitions; the Chinese government's evolving control of the corporate sector; U.S.-China financial connectivity and risks to U.S. national security; China's nuclear forces; deterring PRC aggression toward Taiwan; and the Hong Kong government's embrace of authoritarianism.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Public Law 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: October 28, 2021.

Daniel W. Peck,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2021–23901 Filed 11–2–21; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0178]

Agency Information Collection Activity Under OMB Review: Monthly Certification of On-the-Job and Apprenticeship Training

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0178.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0178'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 115–89 ''Veterans Apprenticeship and Labor Opportunity Reform Act'', 38 U.S.C. 3002(3)(C), 3032(c), 3233, 3313(g), 3484, 3534(a), 3680(c), 3687, and 10 U.S.C. 16131., 38 CFR 21.3131(a), 21.3132(c), 21.4135(e)(3)(iii), 21.4203(f)(3), 21.4262, 21.5130, 21.5138, 21.7139(g), and 21.7639(f), 21.9561(c), 21.9641(g).

Title: Monthly Certification of On-the-Job and Apprenticeship Training.

OMB Control Number: 2900–0178.

Type of Review: Revision of a currently approved collection.

Abstract: Benefits are authorized monthly based on the number of hours worked by the trainee as verified by the training establishment. Unscheduled terminations result in the termination of benefits. If hours are reduced to less than a full-time work schedule, a reduction of benefits will occur. Public Law 115–89 ''Veterans Apprenticeship and Labor Opportunity Reform Act'' (VALOR Act) was signed into law on November 21, 2017. Section 3 of this law amended 38 U.S.C. 3680(c) to eliminate the trainee's certification requirement. As a result, this form is only completed, signed, and certified by the training establishment to report the trainee's number of hours worked and/or to report the trainee's date of termination. The form no longer requires the signature of the trainee. The form is then sent to the Regional Processing Office (RPO) for processing.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 47539 on August 25, 2021, page 47539.

Affected Public: Individuals or Households.

Estimated Annual Burden: 214,794 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Twelve (12) Annually per Respondent.

Estimated Number of Respondents: 107,397.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–23985 Filed 11–2–21; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 86 Wednesday,
No. 210 November 3, 2021

Part II

The President

Executive Order 14051—Designation To Exercise Authority Over the National Defense Stockpile

Federal Register
Vol. 86, No. 210
Wednesday, November 3, 2021

Presidential Documents

Title 3—

The President

Executive Order 14051 of October 31, 2021

Designation To Exercise Authority Over the National Defense Stockpile

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 *et seq.*), section 1413 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239), and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Policy and Purpose.* The United States needs resilient, diverse, and secure supply chains to ensure our economic prosperity, national security, and national competitiveness. In Executive Order 14017 of February 24, 2021 (America's Supply Chains), I directed a comprehensive review of America's supply chains to ensure that they are resilient in the face of a range of risks. One critical component of safeguarding supply chain resilience and industrial base health is ensuring that both the Federal Government and the private sector maintain adequate quantities of supplies, equipment, or raw materials on hand to create a buffer against potential shortages and import dependencies. Some of the Federal Government's key tools to maintain adequate quantities of supplies to guard against such shortages and dependencies are the United States national stockpiles, including the National Defense Stockpile. By strengthening the National Defense Stockpile, the Federal Government will both ensure that it is keeping adequate quantities of goods on hand and provide a model for the private sector, while recognizing that private sector stockpiles and reserves can differ from government ones. This order confers authority related to the release of strategic and critical materials from the National Defense Stockpile to improve Federal Government efforts around stockpiling for national defense purposes.

Sec. 2. *Designation.* In accordance with section 98f of title 50, United States Code, the Under Secretary of Defense for Acquisition and Sustainment (Under Secretary) is designated to have authority to release strategic and critical materials from the National Defense Stockpile.

Sec. 3. *Execution and Consultation.* In executing the authority conferred by this order, the Under Secretary may release strategic and critical materials from the National Defense Stockpile for use, sale, or other disposition only when required for use, manufacture, or production for purposes of national defense. No release is authorized for economic or budgetary purposes. Prior to ordering the release of strategic and critical materials from the National Defense Stockpile, the Under Secretary shall consult with the heads of relevant executive departments and agencies.

Sec. 4. *Authority.* (a) All previously issued orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in effect except to the extent that they are inconsistent with this order or are subsequently amended or revoked under proper authority. Nothing in this order shall affect the validity or force of anything done under previous delegations or another assignment of authority under the Strategic and Critical Materials Stock Piling Act.

(b) Nothing in this order shall affect the authorities assigned under Executive Order 13603 of March 16, 2012 (National Defense Resources Preparedness).

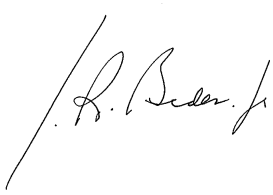
Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
October 31, 2021.

[FR Doc. 2021–24183
Filed 11–2–21; 11:15 am]
Billing code 3395–F2–P

Reader Aids

Federal Register

Vol. 86, No. 210

Wednesday, November 3, 2021

CUSTOMER SERVICE AND INFORMATION

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *https://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available at *https://www.govinfo.gov*. Some laws may not yet be available.

H.R. 5763/P.L. 117–52
Further Surface Transportation Extension Act of 2021 (Oct. 31, 2021; 135 Stat. 409)
Last List October 20, 2021

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1*

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.